

OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD
REGION 3

In the Matter of:

Starbucks Corporation,	Case Nos.	03-CA-285671,
		03-CA-290555, 03-CA-291157
Employer,		03-CA-291196, 03-CA-291197
		03-CA-291199, 03-CA-291202
and		03-CA-291377, 03-CA-291378
		03-CA-291379, 03-CA-291381
Workers United,		03-CA-291386, 03-CA-291395
		03-CA-291399, 03-CA-291408
Union.		03-CA-291412, 03-CA-291416
		03-CA-291418, 03-CA-291423
		03-CA-291431, 03-CA-291434
		03-CA-291725, 03-CA-292284
		03-CA-293362, 03-CA-293469
		03-CA-293489, 03-CA-293528
		03-CA-294336, 03-CA-293546
		03-CA-294341, 03-CA-294303
		03-CA-206200

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UNITED STATES OF AMERICA
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Employer,

and

WORKERS UNITED,

Union.

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 03-CA-206200

The above-entitled matter came on for hearing, pursuant to notice, before **JUDGE MICHAEL ROSAS**, Administrative Law Judge, at the National Labor Relations Board, Region 3, Niagara Center Building, 130 South Elmwood Avenue, Suite 630, Buffalo, New York 14202, on **Monday, July 25, 2022, 1:03 p.m.**

1 A P P E A R A N C E S

2 **On behalf of the Employer:**

3 **JACQUELINE PHIPPS POLITO, ESQ.**
4 **ETHAN BALSAM, ESQ.**
5 **WILLIAM WHALEN, ESQ.**
6 LITTLER MENDELSON PC
7 375 Woodcliff Drive
8 Suite 2D
9 Fairport, NY 14450
10 Tel. (585)203-3413

11 **On behalf of the Union:**

12 **IAN HAYES, ESQ.**
13 HAYES DOLCE
14 471 Voorhees Ave
15 Buffalo, NY 14216
16 Tel. (716)608-3427

17 **On behalf of the General Counsel:**

18 **JESSICA CACACCIO, ESQ.**
19 **ALICIA PENDER STANLEY, ESQ.**
20 NATIONAL LABOR RELATIONS BOARD
21 Niagara Center Building
22 130 S. Elmwood Ave
23 Suite 630
24 Buffalo, NY 142202
25 Tel. (716)551-4931
 Fax. (716)551-4972

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Madison Emler	533, 541	567	586		
Alexis "Kai" Hunter	590	613	618		
Kellen Higgins	621, 638, 649				630, 637, 647

E X H I B I T SEXHIBITIDENTIFIEDIN EVIDENCE**Joint:**

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General Counsel:

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Respondent:

R-1 through 26

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1 P R O C E E D I N G S

2 JUDGE ROSAS: All right. This is a resumption in the
3 matter of Starbucks Corporation. Counsel, I believe we have
4 some business before we resume with testimony to the matter
5 General Counsel and Charging Parties. Did you join in them?

6 MR. HAYES: Sorry. Which motion, Judge?

7 JUDGE ROSAS: Charging Party, the motion for evidentiary
8 sanctions.

9 MR. HAYES: We didn't formally join. I can join it
10 verbally.

11 JUDGE ROSAS: Okay. So essentially there are motions by
12 the General Counsel and Charging Party for evidentiary
13 sanctions based on the failure of the Respondent to fully
14 comply with my July 8th and 9th, 2022 orders, as well as,
15 according to the Charging Party, a verbal motion to
16 conditionally -- with respect to my orders granting or
17 conditionally granting in part petitions to revoke subpoenas
18 duces tecum. I have considered following in factors. To the
19 extent to which the Respondent has complied with the orders,
20 the dates of subpoena served June 6th, and 28 of the General
21 Counsel's subpoenas. June 24th for the Charging Parties
22 subpoena, and the production to date, as far as I know, of 84
23 documents by the Respondent, and its failure to begin a
24 significant amount of rolling production by July 18 and July
25 21, 2022. The dates that I set for any submission of any

1 privilege laws that the General Counsels and Charging Party,
2 respectively.

3 The ground that we have covered in this proceeding is also
4 being considered, testimony and the exhibits offered. The need
5 for the General Counsel and the Charging Party to possibly
6 recall witnesses to testify regarding documents that are
7 subsequently produced. And the explanations by the Respondent,
8 including its written opposition for failing to comply in
9 significant part with the subpoena's duces tecum. I grant the
10 motions for evidentiary sanctions as follows. Should the
11 General Counsel recall call witnesses to testify regarding
12 subsequently produced documents and where Charging Party have
13 to do the same, the Respondent shall be precluded from cross-
14 examining said witnesses on such matters. In addition, given
15 the failure to introduction the General Counsel and Charging
16 Party will be permitted to introduce secondary evidence. This
17 ruling will be revisited periodically. Are there any
18 questions -- are there are exceptions, I -- I take it.

19 MS. POLITO: Yes, Your Honor.

20 JUDGE ROSAS: Okay.

21 MS. POLITO: Respondent objects for the reasons stated in
22 our opposition filed earlier today in writing.

23 JUDGE ROSAS: Okay. Anything else at this time?

24 MS. CACACCIO: Yes, Your Honor. We are offering General
25 Counsel Exhibit 50, which is the certification of

1 representative for the Transit Commons store that was issued
2 July 19th. There's one in front of you and I passed it around.
3 I did show it to Respondent before I said I was going to offer
4 it. That's just for completeness purposes.

5 MS. POLITO: Judge, we have no objection.

6 JUDGE ROSAS: General Counsel's 50 is received.

7 **(General Counsel Exhibit Number 50 Received into Evidence)**

8 MS. CACACCIO: We're are also going to be offering a Joint
9 Exhibit. It's Joint Exhibit 1, given that's the first one I
10 believe. It is a video of a meeting that happened on November
11 6th, 2021. It was produced to the General Counsel in that
12 first drawing of production as Bates number 61.

13 We're going to be producing it electronically given that
14 it's a video, but we discussed it prior to me opening my mouth
15 just now. So I suspect it's probably okay. But that's the
16 one.

17 JUDGE ROSAS: Is that correct?

18 MS. POLITO: That's correct, Your Honor.

19 JUDGE ROSAS: All right. Joint Exhibit 1 is received.

20 **(Joint Exhibit Number 1 Received into Evidence)**

21 JUDGE ROSAS: Charging Party, is that correct?

22 MR. HAYES: Yes.

23 JUDGE ROSAS: All right. Is there anything else?

24 MS. CACACCIO: Not from General Counsel.

25 JUDGE ROSAS: Charging Party?



1 MR. HAYES: Nothing, Your Honor.

2 JUDGE ROSAS: Respondent?

3 MS. POLITO: Yes, Your Honor. Week one we had submitted
4 and index of Exhibits, Number 1 through 26, that the General
5 Counsel and Charging Parties counsel reviewed. We also
6 submitted earlier today the remaining exhibits that we would
7 like introduced into the record, including many of the
8 discussions that we just had with respect to the discovery
9 orders and the sanctions request.

10 So we at this point in time, we're asking that those
11 exhibits be entered into evidence. I recognize that we just
12 gave Counsel the index this morning for the second set of
13 documents. So if they want time to review it, that's fine.
14 But we would like all of these issues that we've discussed over
15 email introduced into the record.

16 JUDGE ROSAS: What are they enumerated?

17 MS. POLITO: I apologize, Judge. My computer is acting
18 up.

19 MS. CACACCIO: I think it's 1 through 87.

20 MS. STANLEY: It's 27 through 87.

21 MS. CACACCIO: Well, we didn't do the first 26 yet.

22 MS. STANLEY: Oh, I thought the ones from today were 27
23 through 87.

24 MS. CACACCIO: Yeah.

25 MS. POLITO: This is a reminder I can hear you guys when

1 you're whispering when we're on the record. I can hear the
2 whispering of Counsel.

3 MS. CACACCIO: Oh.

4 JUDGE ROSAS: So what is it?

5 MS. POLITO: It's 1 through 87, Judge.

6 JUDGE ROSAS: Respondent 1 through 87.

7 MS. POLITO: Correct. And we submitted an index instead
8 of hardcopies. My understanding from all parties is we're
9 trying not to print out hardcopies unless we need to.

10 JUDGE ROSAS: So a portion of that has been viewed and
11 confirmed by the General Counsel and the Charging Party as the
12 remainder of it as well, or do you want time to review it?

13 MS. CACACCIO: We just got the remainder this afternoon.
14 We haven't had a chance to look at what would be 27 through 87.
15 Did 1 through 26 get the edits that Charging Party --

16 MS. POLITO: Yes.

17 MS. CACACCIO: Okay. Then we don't have any objection to
18 that. To 1 through 26. That was what was offered.

19 JUDGE ROSAS: All right.

20 MS. CACACCIO: And we had a chance to look at those --

21 JUDGE ROSAS: So 1 through 26 are received.

22 **(Respondent Exhibit Number 1 through 26 Received into Evidence)**

23 JUDGE ROSAS: And 27 through 87 you're going to review and
24 advise me of your position?

25 MS. CACACCIO: Yes, Your Honor.

1 JUDGE ROSAS: Okay. Anything else?

2 MS. POLITO: No, your Honor.

3 JUDGE ROSAS: Okay. So let's just recap really briefly as
4 to where we are regarding the audio recordings.

5 MS. CACACCIO: Yes.

6 JUDGE ROSAS: And transcriptions --

7 MS. CACACCIO: Yes.

8 JUDGE ROSAS: -- to be --

9 MS. CACACCIO: Yes.

10 JUDGE ROSAS: -- offered for them.

11 MS. CACACCIO: Yes. We do. We produced a number of
12 recordings and transcriptions over the weekend. I think the
13 last of which, much to my dismay, was very late on Saturday
14 night. But everything I have this moment Respondent has.

15 So for this week, with the exception of Tuesday's witness,
16 which we talked about on the conference call, that one would
17 not have been five days by the time we had the call and we had
18 your ruling. So that one we're going to have to play. But our
19 hope is to move faster than last week. My goal is to have two
20 witnesses today. So we'll see if we can't do it. And those
21 two witnesses today, we are not offering any recordings with
22 those witnesses.

23 JUDGE ROSAS: Okay. We're ready to call them now?

24 MS. CACACCIO: Yes, Judge. I have to go get her.

25 Judge, just a second. I haven't gotten my witness yet.



1 In the hallway -- I'll get you a mic. In the hallway there's a
2 woman who is interested in sitting in on the proceeding. She
3 is a current Starbucks employee. I don't know her. We never
4 talked to her ourselves. I don't know if she's a potential
5 witness for someone else.

6 JUDGE ROSAS: You do not plan to call her?

7 MS. CACACCIO: I don't even know her.

8 JUDGE ROSAS: And Charging Party, do you know who she is
9 and --

10 MR. HAYES: I -- I don't know.

11 JUDGE ROSAS: Well, if the parties -- if Counsel can
12 confirm, you know, that anyone whose present in proceedings is
13 not a potential witness, then you know, it's a public
14 proceeding.

15 (Counsel confer)

16 MS. POLITO: We have no witnesses in the courtroom, Judge.

17 (Counsel confer)

18 MS. CACACCIO: It's for the sequestration order issue.
19 Like if you though we might be calling this witness.

20 MS. POLITO: Is there someone in -- outside? Is that what
21 you're talking about?

22 MS. CACACCIO: Yes. She popped her head in and then she
23 stepped out.

24 MS. POLITO: I don't know who that is.

25 MS. CACACCIO: Yeah, neither do I. So let me go get my

1 witness. You can go meet her if you want to.

2 MS. POLITO: So Judge, it appears that the individual in
3 the hallway is a current employee of Starbucks. My
4 understanding from all three parties is no one's asked her to
5 be here. We don't -- but we don't know if she's going to be a
6 witness. We're on trial for the next four months. So I don't
7 think she should be allowed to sit in the courtroom not knowing
8 if she's going to be a witness. I didn't even get her name. I
9 just know that we didn't ask anyone to be here. And I'm
10 relying Counsel --

11 JUDGE ROSAS: Well --

12 MS. POLITO: -- Charing Parties' representation.

13 JUDGE ROSAS: -- no, let's -- you're right, you have to
14 look at it in a different way. It's a public proceeding. And
15 we have a sequestration order.

16 MS. POLITO: Right.

17 JUDGE ROSAS: So what -- what does that mean? It means
18 anybody who wants to be here can be here except for anybody
19 who, you know, you intend to call. Right. Or may possibly
20 call. And you know, if she's -- if you subsequently desire to
21 call her, you won't be able to call her. I mean, it's as
22 simple as that.

23 MR. HAYES: Right.

24 JUDGE ROSAS: So she can sit in if she wants, but you
25 know, the parties will fall with it.

1 MS. POLITO: So I'm sorry, Judge. So if she's allowed to
2 sit in, no one is allowed to call her as a witness?

3 JUDGE ROSAS: Right.

4 MS. POLITO: But at this point in time, we don't know if
5 we would call her as a witness or not. We don't know what that
6 testimony is going to be as presented by the Board over the
7 course of the next two months. She might become a critical
8 witness. I -- I have no idea. So I can't make a commitment
9 that I'm not going to call her as a witness if she's a current
10 employee.

11 JUDGE ROSAS: You know, it's the first time that's been
12 ever -- that's been argued. I -- I don't think it cuts that
13 way. You know, when you -- when you're trying to preserve the
14 right for -- for public, you know, access to say that anybody
15 might possibly be called. You -- you have to kind of know now.

16 MS. POLITO: Well, I --

17 JUDGE ROSAS: If you don't know now, then you know,
18 she's -- she's out of the box for anybody. You know, later on.

19 MS. POLITO: Well, I -- I don't know her name. I know
20 she's a current partner at Transit Commons, and so I don't know
21 if she's going to be called later as a witness. And I don't
22 know when she leaves here is she going to be instructed not to
23 talk to other people that might be witnesses. I get the need
24 to --

25 JUDGE ROSAS: We addressed that --

1 MS. POLITO: -- preserve --

2 JUDGE ROSAS: -- we addressed that on the very first day.

3 MS. POLITO: Right.

4 JUDGE ROSAS: And you know, that's not -- not an issue
5 that I'm going to give people from the public who -- who
6 participate here. I mean, that would be a little, you know,
7 from the standpoint of the government, I think that would be a
8 little over, you know, heavy handed. You know, to tell people
9 who were, you know, or participating. Anybody who was in the
10 hearing who is not connected with either side, you know, they
11 can't talk to anybody about the testimony that they've heard
12 that day.

13 Now, you know, it -- it will -- it will take, I think, you
14 all to scrub that out of any of the witnesses, you know, as to
15 whether or not they can taint in that regard. I mean, I don't
16 know how else you're going to do this. I'm not going to issue
17 a sweeping order that basically closes the hearing. You'd have
18 to close the hearing. You'd have to close the hearing.

19 MS. POLITO: Do you want to talk?

20 MS. CACACCIO: Sure.

21 MS. POLITO: I don't know if you need to --

22 JUDGE ROSAS: I mean, you know, look I'll -- she works at
23 Starbucks. I'll give you all, you know, a couple of minutes
24 to -- to talk to her and -- and see, you know, maybe she
25 doesn't want anything to do with anybody right now. You can

1 talk to her. Talk to her.

2 (Off the record at 1:17 p.m.)

3 JUDGE ROSAS: Okay. Back on the record. Who does General
4 Counsel call?

5 MS. CACACCIO: This is Madison Emler.

6 JUDGE ROSAS: Please raise your right hand?
7 Whereupon,

8 **MADISON EMLER**

9 having been duly sworn, was called as a witness herein and was
10 examined and testified as follows:

11 THE WITNESS: I do swear the testimony -- understand to be
12 is the truth.

13 JUDGE ROSAS: I'm sorry?

14 THE WITNESS: Can you repeat that? I'm sorry.

15 THE WITNESS: Yes, I do. I do.

16 JUDGE ROSAS: Okay.

17 THE WITNESS: Yes.

18 JUDGE ROSAS: In a very loud voice --

19 THE WITNESS: Okay.

20 JUDGE ROSAS: -- and from here on out because it has to
21 reverberate around the room. Your name?

22 THE WITNESS: My name is Madison Emler.

23 JUDGE ROSAS: Can you spell it?

24 THE WITNESS: M-A-D-I-S-O-N, and the last name is Emler,
25 E-M-L-E-R.

1 JUDGE ROSAS: And an address, business is fine or at home?

2 THE WITNESS: My address is (b) (6), (b) (7)(C)

3 (b) (6), (b) (7)(C) .

4 **DIRECT EXAMINATION**

5 Q BY MS. CACACCIO: Good afternoon, Madison. What are your
6 pronouns?

7 A My pronouns are she/her.

8 Q Who's your employer?

9 A My employer is Starbucks.

10 Q How long have you worked for Starbucks?

11 A I was hired on August 15th, 2016.

12 Q And what's your role in the company?

13 A I am a barista, as well as a baristas trainer.

14 Q How long have you been a barista trainer?

15 A About four years.

16 Q And what is the role of the barista trainer entail?

17 A So typically, that would involve getting a new partner in
18 various roles of the company. For example, you got to learn
19 how to make drinks, teach them how to use the cash register,
20 and customer support, which is like restocking and just making
21 the backups. And you typically work one-on-one with them.

22 Q And you said typically. Did that change?

23 A Yes, that did change.

24 Q And when did that change?

25 A That changed around August of last year.

1 Q And how did it change?

2 A So I started training the partners in the store that they
3 were hired at, which was how it was done before, the company
4 decided centralize training in a few different locations.

5 Q Since the centralized training has happened, have you been
6 able to train any of the new employees?

7 A Not formally. When they come to our store they have been
8 trained at the centralized location. However, it seems to be
9 quite large knowledge gaps with the newer partners.

10 Q So what does that -- how does that affect you?

11 A So it deeply affects the store and the business, because
12 since these partners are not getting adequate -- adequate
13 training, they're put into shifts before they're ready for
14 them.

15 MS. POLITO: I'm going to object to the answer that the
16 partners aren't -- haven't been given adequate training.
17 Because there's no foundation by this person. She's not a
18 manager. She has no idea if they've gotten adequate training
19 or not. And I move to strike the answer.

20 MS. CACACCIO: May I be heard?

21 JUDGE ROSAS: Sure.

22 MS. CACACCIO: The witness has just testified she's a
23 barista trainer. She works with these individuals and she
24 knows whether or not they're able to do the job that she's
25 working alongside them doing.

1 JUDGE ROSAS: I'm going to sustain the objection with
2 respect to the form and the vagueness of the response.

3 Q BY MS. CACACCIO: Have you worked alongside any of the new
4 partners?

5 A Yes, I have.

6 Q And what have -- what have you seen in your own
7 observation with respect to their performance?

8 A So from what I've witnessed --

9 MS. POLITO: Objection, Judge. I don't know who the
10 witness is talking about. And she's just talking generally.

11 JUDGE ROSAS: Well, she was prefacing her answer. Let's
12 see what the rest of it is. You can move to strike. Go ahead.
13 Finish your answer.

14 A So the newer partners would have been hired on -- after
15 August 2021, they're coming from the centralized training
16 stores, have lacked knowledge in some of the positions.

17 Q BY MS. CACACCIO: Which ones, specifically?

18 A So what I see is that they do not have the full knowledge
19 they need to perform the routines on bar. What I've seen is
20 when they come to our store they're typically only able to work
21 the drive through register or cash people out up front. And
22 that -- so they don't have a lot of flexibility in the roles
23 they can perform.

24 Q And about how many of these people have you worked with?

25 A So probably about eight.

1 Q And you said that you're not involved in any formal
2 training of them. Are you involved in any informal training
3 with them?

4 A Yes. I am.

5 Q And what have you done?

6 MS. POLITO: I'm going to object. Are we talking about
7 the eight people that she just referred to that we don't know
8 their names?

9 MS. CACACCIO: I don't think we need to --

10 JUDGE ROSAS: All right. Let's -- let's take a quick step
11 back for a minute. Where is this facility?

12 THE WITNESS: The training facility?

13 JUDGE ROSAS: No.

14 THE WITNESS: Oh. So --

15 JUDGE ROSAS: Where you work?

16 THE WITNESS: -- I work at the Transit and Maple store.

17 JUDGE ROSAS: Okay. Repeat the question.

18 Q BY MS. CACACCIO: I asked her whether she had -- she said
19 that she hadn't done any formal training, and I asked her if
20 she done any informal training with them. Of the new, and I
21 can rephrase it. The new --

22 JUDGE ROSAS: As to informal.

23 Q BY MS. CACACCIO: Did you --

24 A So typically the way that the training would work before,
25 is that you would be paired one on one with a new partner for

1 about a week, and there would be a physical training schedule
2 on paper. And there was blocks. And the barista trainer, if
3 they're new partner has stayed, and I believe it was at least
4 90 days, there would be a \$65 bonus awarded to the partner
5 training. However, I have not seen those training schedule for
6 a while. They're not scheduled along side one of those newer
7 baristas. And you -- by informal I mean your manager would
8 just kind of pair you up with them and ask you to guide them.

9 Q How many hours a week do you work?

10 A So that area is on the time of the year. I'm a college
11 student. So when school is session, I try to work about 20
12 hours a week or less. However, during the summer and during
13 breaks from school I try to be there at least 35 hours a week.

14 Q And you testified that you were a barista and barista
15 trainer now. Have you ever held any other roles for Starbucks?

16 A Yes. I was a shift supervisor from September 2018 to
17 December of 2020.

18 Q And what locations have been your home store during your
19 employment with Starbucks?

20 A When I was first hired I worked at the Niagara Falls
21 outlet kiosk. I worked there from the time I was hired in
22 August 2016 until May 2020, when the store was permanently
23 closed due to the pandemic.

24 Q Then where?

25 A After that I worked at the Niagara Falls Boulevard

1 location at Niagara Falls. I was only there temporarily for
2 about two months. After that, I had made a planned transfer to
3 the Eastview store, which is now become the Transit and Maple
4 drive through. And I was temporality housed in the Transit and
5 Commons store from July 2020 -- excuse me. June 2020 to July
6 2020. And then after that I was moved to the Eastview store.

7 Q You said the Transit and Common store?

8 A Yes.

9 Q And when was that?

10 A That was from June 2020 to July 2020.

11 Q June 2020 to July 2021?

12 A No. 2020.

13 Q Oh, so it was one month?

14 A Yeah, it was just one month.

15 Q Okay. Sorry.

16 A Yeah. It was very brief.

17 Q Okay. And where were you after that? I'm sorry.

18 A So then after that I transferred to the Eastview location
19 on Transit Road.

20 Q Okay.

21 A That was just a cafe store at the time.

22 Q Okay.

23 A And --

24 Q And when was that?

25 A That was from about -- I remember it was July 20 -- 2020,

1 until September 2020 is when we packed everything up and moved
2 over to the new Transit and Maple location.

3 Q And where did you work after that?

4 A So I was at the Transit and Maple store from -- so from
5 September of 2020 to about April of 2022 when I transferred to
6 the Tonawanda store. I was only there for about three weeks.
7 And due to some circumstances with that store temporally
8 reclosing, I actually ended up transferring back to the Transit
9 and Maple store.

10 Q And that's where you are now?

11 A Yes.

12 Q Okay. So other than all those stores you just mentioned,
13 have you worked anywhere else?

14 A Yes. I have been hired at a lot of stores.

15 Q Can you name any of them?

16 A I worked at the Hamburg store. I've worked at the
17 Galleria Kiosk when that was still open. The Niagara Falls
18 Boulevard cafe. I've worked at the -- I did an internship at
19 the Tonawanda store before I worked there.

20 MS. CACACCIO: Your Honor, can we stop for just a second?

21 JUDGE ROSAS: All right.

22 (Off the record at 1:32 p.m.)

23 JUDGE ROSAS: All right. So there's been a concern.

24 Given that this is a long case, and the needs that Counsel have
25 the ability to enforce the sequestration rule that's in effect

1 in this case, and the fact that it's a long case, potential
2 problems that may arise in tracking who, if anyone, has been
3 here to observe the hearing. Who would not like -- would not
4 be able to be called later if essentially there in violation of
5 the sequestration rule. And it's an all or nothing. So at
6 this point, I think it's over objection -- over objection by
7 the Charging Party?

8 MR. HAYES: Correct, Your Honor.

9 JUDGE ROSAS: Okay. Anybody else object to my ruling that
10 anyone who's in the hearing room, Counsel have the right to ask
11 if they're connected with the Starbucks Corporation to any
12 extent or with Workers United, and with respect to anyone
13 who -- who works at Starbucks to elicit their names for the
14 record. And that can be stated on this record that the names
15 be listed for an individuals should come. Okay? All right.
16 Let's go off the record.

17 (Off the record at 1:43 p.m.)

18 MS. CACACCIO: It's the General Counsel's position that
19 they we should just keep track amongst ourselves, and if
20 there's an issue later, we can address. These are members of
21 the public. I don't think they need to be publicly named in
22 the transcript.

23 JUDGE ROSAS: And you have the names, and you have the
24 names.

25 MS. CACACCIO: We're going to --

1 MS. POLITO: I --

2 JUDGE ROSAS: Respondent has the names?

3 MS. CACACCIO: We're going to be giving Respondent the
4 names right now.

5 MS. POLITO: I thought we were putting the names in the
6 record, but if the Judge prefers --

7 JUDGE ROSAS: Well, I've reconsidered that.

8 MS. POLITO: -- prefers us not to --

9 JUDGE ROSAS: The fact that you have the names, I think we
10 have enough control here in terms of what transpired.

11 MS. POLITO: Okay, Judge, and then moving forward, so we
12 don't have to do this again if there's a new person in the
13 courtroom, I think we can engage in this exercise without
14 request of the Court and maintain a joint list.

15 JUDGE ROSAS: Correct.

16 MS. POLITO: That works, Judge. Thank you.

17 MS. CACACCIO: Okay.

18 **RESUMED DIRECT EXAMINATION**

19 Q BY MS. CACACCIO: Hi, Maddy.

20 A Hi.

21 Q We were talking about what stores you worked in other than
22 your home stores, and I think we may have interrupted you, so
23 I'm sorry if we did that. If you wouldn't mind just telling us
24 what home stores you've worked in other than -- what -- what
25 stores you've worked in other than the ones that are listed as

1 your home store?

2 A Okay. So stores that I've been borrowed at include the
3 Niagara Falls Boulevard drive --

4 JUDGE ROSAS: Hold on, hold on, hold on, hold on, no.
5 We're already -- we've got that all on the record. We -- the
6 last notation I have after you went through that whole
7 chronology --

8 MS. CACACCIO: So Judge, the chronology was what the home
9 stores were; this is what other locations she's worked at.

10 JUDGE ROSAS: And that wasn't an exhaustive list that she
11 gave of all the other stores?

12 MS. CACACCIO: Those -- so I can have her talk about what
13 a home store is and what being borrower is.

14 JUDGE ROSAS: Did you -- did you testify to all the other
15 stores, East -- Eastview, Tonawanda, Transit and Maple.

16 MS. CACACCIO: Those are home stores, Judge.

17 JUDGE ROSAS: Okay, all right. Go ahead.

18 Q BY MS. CACACCIO: Can you just tell us what a home store
19 is really quick?

20 A So your home store is the store that you belong to. That
21 is the store you're typically scheduled at and work at all, if
22 not most, of your shifts. However, it's not out of the
23 ordinary for partners to pick up shifts at other stores when
24 they need help.

25 Q Have you picked up shifts at stores other than those home

1 stores that we did in the chronological list?

2 A Yes.

3 Q And what's the locations of those?

4 A So I worked at the Niagara Falls drive-through location,
5 Niagara Falls Boulevard in Amherst, which is a cafe location.
6 I've worked at the Galleria kiosk before that closed. I've
7 worked at the Hamburg McKinley location. I'm trying to think.
8 Those are the stores that come to mind. However, I'm sure that
9 there are more.

10 Q You mentioned that you worked at the Galleria kiosk before
11 it closed; how many times did you work there?

12 A I would say I worked there between five and ten times.

13 Q And when was the last time that you worked there?

14 A The last time I worked at that location was the end of
15 June of 2021.

16 Q And when you worked at the kiosk, what was your experience
17 there?

18 A So at that time, I was still familiar with the Niagara
19 Falls outlets kiosk, and compared to the one in Niagara Falls,
20 this kiosk was a lot busier. The physical condition of the
21 store was in need of some repairs. The floor drains would get
22 blocked and cause the water to flood the floor. But I -- I did
23 enjoy working there. I enjoyed working with the partners that
24 were there.

25 Q And you said you currently work at the Transit and Maple



1 store; when did the Transit and Maple store first open?

2 A That opened in September 2020.

3 Q When was the first time that you heard about the union
4 campaign?

5 A The first time I heard about the campaign was about August
6 2020. 2021, I'm sorry.

7 Q And how did you hear about it?

8 A I believe I first knew about it through social media.

9 Q And what was the first thing that you noticed after you
10 saw the campaign on social media?

11 MS. POLITO: Objection, Your Honor. Noticed about what?

12 JUDGE ROSAS: Rephrase.

13 Q BY MS. CACACCIO: What was the first thing you noticed
14 that happened in your store after the campaign?

15 A So after the union campaign went public in August of last
16 year, the first thing that I noticed was an increase in visits
17 from our district manager.

18 Q Who was your district manager at that time?

19 A At that time, it was David LeFrois.

20 Q And how often would Mr. LeFrois come in before the
21 campaign?

22 A I would only see him probably about once a quarter, so
23 every three months, roughly.

24 Q And what about after the campaign was announced?

25 A After the campaign started, he was there much more often,



1 sometimes twice a week.

2 Q And other than the frequency of his visits, did they
3 change in any other way?

4 A Yeah, so previously, he would sit down with my manager in
5 the lobby and just have discussions with him for the most part.
6 And after the campaign started, he began spending more time on
7 the floor with partners and speaking with us about how we felt
8 things were going, and that he -- he would speak to us before,
9 but not in that fashion.

10 Q Does Mr. LeFrois still work for the company as far as you
11 know?

12 A No, he left September of last year, I believe.

13 Q Other than Mr. LeFrois, did your store have any other
14 visitors that you hadn't really seen before?

15 A Yes, we had quite a few visits from other management.

16 Q And do you remember any of them specifically?

17 A The most significant in my mind was Rossann Williams.

18 Q Okay, and we'll talk about Rossann in just a second.

19 Were -- do you remember any others?

20 A So we had quite a few different managers come through from
21 throughout the country. Some were district managers in other
22 areas of the country, or store managers, and they were there
23 quite often.

24 Q Let's start with Rossann; do you remember Rossann's last
25 name?

1 A Williams.

2 Q And when did she first visit your store?

3 A I believe I first met her in the store in early September
4 of 2021.

5 Q Had you ever seen her in your store prior to this visit?

6 A No.

7 Q And how often did she visit after the first time that you
8 saw her?

9 A She was there quite often, usually once a week. Sometimes
10 she was here once every few weeks.

11 Q And how long did her visits last?

12 A Her -- her -- the length of her visits varied. Sometimes
13 she would just quickly stop in and ask us how things were
14 going, see if there was anything she could do. And when there
15 were other times she was there for up to an hour, just
16 discussing things with partners.

17 Q And what did she do during those visits?

18 A So her roles during the visits varied. She -- there were
19 times where she --

20 MS. POLITO: Object to the answer, "her roles". The
21 question was what did she do during those visits.

22 JUDGE ROSAS: Foundation.

23 Q BY MS. CACACCIO: What did you see Rossann do when she
24 visited your store?

25 A So she would help out with tasks within the store, some of

1 which would include taking out trash. There were times that
2 she would restock the milk fridges for us. There was even a
3 time that we were running low on a certain milk, and my shift
4 supervisor had her go to the store and buy milk for us, which
5 she did.

6 Q Did you ever speak to Rossann yourself when she was
7 visiting your store?

8 A Yes, I did.

9 Q What did you talk to her about?

10 A I talked to her -- I had some concerns about my store
11 manager at the time, specifically that he wasn't following the
12 COVID protocol that Starbucks had put into place to protect us.

13 Q Why did you talk to her about that?

14 A Because I had brought up a concern with my store manager
15 before, and I felt that nothing was being done to address them
16 and they were just kind of being swept under the rug. And I
17 knew who she was and how high of a position she held.

18 Q Had she said anything prior to you approaching her?

19 A She welcomed us to talk to her and ask questions and speak
20 to her.

21 Q Did she ever say that to you specifically?

22 A I believe so; she said it to quite a few of us partners.

23 Q So when did you talk to her about the issues you had with
24 your store manager?

25 A That was, I believe, on her first visit. That would have

1 been early September of last year.

2 Q And where were you when you talked to her?

3 A We were in the lobby of the Transit and Maple store.

4 Q And what was your store manager's name?

5 A Joe DePonceau.

6 Q And what did you say to Rossann?

7 A I had brought up concerns with her, like I said, about the
8 COVID protocol. I also felt that there was a lot that could be
9 improved in -- in the store. And I had discussed these things
10 with Joe previously, and he said that he would work on it, but
11 nothing was ever done.

12 Q Did she respond?

13 A She did. She told me that the COVID -- not following the
14 COVID was unacceptable, and that there were certain things that
15 he was doing that were not okay, and that she would look into
16 it.

17 Q And these concerns you brought to Rossann, had you ever
18 talked to anyone about them previously, other than your
19 manager?

20 A There was quite a bit of discussion about our manager's
21 shortcomings within the partners in the store.

22 Q And what, if anything, happened after you spoke to Ms.
23 Williams about your concerns?

24 A So I -- I felt the conversation that I was having with her
25 was private. However, one of my coworkers, I believe, was

1 listening to it. Because about two days after this
2 conversation I had with her, Joe, my manager at the time, sat
3 me down and told me that if I had concerns, I shouldn't have
4 brought them up to them, and that if he caught me talking about
5 him or talking about these concerns with Rossann or anyone
6 else, that he would give me a document and write-up.

7 Q Where were you when you had this conversation with Joe?

8 A Joe sat me down in the lobby.

9 Q Of your store?

10 A Yes.

11 Q Prior to the campaign, what was the highest-ranking
12 Starbucks official that you had ever seen in a store that you
13 were working in?

14 A The highest-ranking official I'd seen before was the
15 regional director at the time.

16 Q Do you remember when that happened?

17 A That was shortly after I was promoted, so that was roughly
18 about November of 2018.

19 Q And what store were you working in?

20 A I was at the fashion outlets kiosk in Niagara Falls.

21 Q Do you know why the regional director was there?

22 A I believe he was recently promoted to the role and was
23 just coming through to visit the stores that were in his
24 region.

25 Q And how many times had you seen a regional director in a

1 store prior to the campaign?

2 A That was the only time.

3 Q You mentioned that there were other district managers that
4 visited your store; do you remember their names?

5 A So there is Michaela Murphy. She is currently my
6 district's manager.

7 Q Is Michaela the only one that you remember seeing in your
8 store that was a district manager?

9 A I don't know if she's a district manager, but M.K. was
10 there, as well.

11 Q Let's start with M.K.; when did she first visit your
12 store?

13 A Probably about September of 2021.

14 Q How often did she visit your store?

15 A Pretty often, at least once every two weeks, if not every
16 week.

17 Q And how long did her visits last?

18 A That depended, again. Sometimes it could just be a very
19 quick, hey, how's it going, do you need anything. However,
20 there were also times that she would sit and discuss things
21 with our store manager at the time, and also, our support
22 manager.

23 Q And what did she do during her visits?

24 A There were a few times when she worked on the floor with
25 us. She would go on bar if needed, just general support if we

1 were missing people, because we were going through quite a bit
2 of staffing issues at the time.

3 Q Do you see her in the courtroom today?

4 A Yes.

5 MS. CACACCIO: Your Honor --

6 Q BY MS. CACACCIO: Can you identify her for us?

7 A Green jacket.

8 MS. CACACCIO: Your Honor, let the record reflect the
9 witness has identified the Respondent's partner representative
10 as M.K.

11 Q BY MS. CACACCIO: You also mentioned Michaela Murphy;
12 who's that?

13 A Um-hum, so she -- when she first came to my store, she was
14 a -- I believe, a district manager out of Washington.

15 Q And when did she first visit your store?

16 A Pretty early on, I believe around that September time
17 frame.

18 Q And how -- how often did she visit your store?

19 A She was there quite often, sometimes there with M.K., as
20 well.

21 Q And what did she do during her visits?

22 A She would speak with some of us on the floor about how
23 things were going and just offer support for us. And again,
24 she would discuss things sometimes with my store manager and
25 the support manager.

1 Q How long would her visits last?

2 A Again, same kind of deal where it depended, between ten
3 minutes to an hour or two hours.

4 Q You mentioned that your store's manager was Joe DePonceau;
5 do you remember about when he worked for your store?

6 A So he was there from the time that I transferred in --in
7 July of 2020, and he left around Thanksgiving of last year.

8 Q How often was he in your store?

9 A He was there pretty often, usually four days a week, if
10 not more.

11 Q And what did he do when was in -- working your store? If
12 it changed at all, tell us that, too, but what did he do when
13 he was there?

14 MS. POLITO: Object to the question.

15 JUDGE ROSAS: What's the objection?

16 MS. POLITO: Compound.

17 JUDGE ROSAS: Repeat the question?

18 MS. CACACCIO: I asked what he did when he was in the
19 store, and if that changed, let us know when that happened so
20 we have a time --

21 JUDGE ROSAS: Break it up.

22 Q BY MS. CACACCIO: Did what he'd do every change when he
23 worked in your store?

24 A It's hard to say if it had to do with the union campaign,
25 but after that had happened, he was on the floor working



1 alongside us a lot more.

2 Q And what else did he do when he was in your store?

3 A He would do admin, usually -- that was on Mondays -- which
4 would include writing scheduled, doing payroll. And then other
5 days, he would run the shift, work on the floor with us.

6 Q Prior to the union campaign, did Transit and Maple have
7 any other managers other than the store manager?

8 A No.

9 Q Who's your store manager now?

10 A My store manager now is Kimberly Rower (phonetic
11 throughout).

12 Q How often is she in the store?

13 A She's there at least five days a week, if not more.

14 Q And what does she do when she's in the store?

15 A She also does some of the same roles, or some of the same
16 things, that Joe did. There's admin, doing payroll and
17 scheduling. She works on the floor a lot, though. I'd say, at
18 least 80 percent of the time, she's working on the floor with
19 us.

20 Q Who's responsible for hiring at your store currently?

21 A I'm not completely sure if that responsibility has gone
22 back to Kim yet, but I believe it's still being done by
23 recruiters for the company.

24 Q Do you when the recruiters started?

25 A That was, I'd say, about September of 2021, and it was

1 done to try to take the pressure off the store managers so
2 they --

3 MS. POLITO: Objection. This witness doesn't know why
4 that decision was made by Starbucks.

5 Q BY MS. CACACCIO: Did you hear --

6 JUDGE ROSAS: Sustained.

7 Q BY MS. CACACCIO: Did you hear why the decision was made?

8 MS. POLITO: Objection. Hearsay.

9 MS. CACACCIO: Well, it might not be hearsay if it was --
10 she was told so by management. There might be an exception.

11 JUDGE ROSAS: Overruled. You can answer if you know.

12 A I don't know the exact answer, but --

13 Q BY MS. CACACCIO: Okay.

14 A -- that's my belief.

15 Q Okay. Other than Joe and Kimberly, did your store ever
16 have any other managers?

17 A We had our support manger, Richard Tran. He came to us in
18 September of last year.

19 Q Where was he from?

20 A He was from Orange County, California.

21 Q And what was his role in your store?

22 A From my understanding, he was there to help support Joe in
23 his duties.

24 Q Did his role have a title?

25 A Support manager.

1 Q Is he still working -- is Mr. Tran still working at your
2 store?

3 A No, he isn't.

4 Q When -- when did he leave, do you know?

5 A He left right before Christmas.

6 Q And when he was working in your store, how often did he
7 work?

8 A He was there sometimes 60 hours a week.

9 Q Prior to the union campaign, had any of the stores that
10 you ever worked in had a support manager?

11 A No.

12 Q Did you ever attend any meetings held in your store?

13 A The only meetings that I attended prior to the union
14 campaign were shift supervisor meetings and holiday planning
15 meetings.

16 Q What about after the union campaign? Did you attend any
17 meetings in your store?

18 A Yes.

19 Q Did you record any of those?

20 A I did not.

21 Q When was the first meeting you attended?

22 A That was September of last year.

23 Q And where was it held?

24 A It was held in the lobby of the Transit and Maple store.

25 Q What time was the meeting?

- 1 A I believe the first one was around 4 p.m.
- 2 Q And I -- forgive me. Is Transit and Rainbow (phonetic
3 throughout) and Transit and Maple the same place?
- 4 A No.
- 5 Q Okay. Was the store open or closed for the meeting?
- 6 A We closed early that day to the public.
- 7 Q What time was the time supposed to close that day?
- 8 A 9:00.
- 9 Q And what time did it close?
- 10 A I believe at least -- excuse me. I believe it closed at
11 3.
- 12 Q Prior to this meeting, had you ever attended a meeting for
13 Starbucks where the store was closed to have it?
- 14 A Not that I can recall.
- 15 Q How did you learn about the meeting that you attended in
16 September of 2021?
- 17 A I noticed that the majority of my coworkers on the
18 schedule were scheduled for a one-hour shift, and I'd never
19 seen that before. And so I asked some of my coworkers and come
20 to find out that it was going to be an in-store meeting.
- 21 Q Were you scheduled for it, too?
- 22 A Yes, I was already working that day, so it was just an
23 extension of my shift.
- 24 Q Did you go to the meeting? Well, obviously, you said you
25 did.

1 A Yeah.

2 Q Why did you go to the meeting?

3 A It's my belief that it was a required meeting, or at least
4 a strongly encouraged one.

5 Q How long did this first meeting last?

6 A This first meeting was roughly an hour.

7 Q Did the store reopen after the meeting ended?

8 A It did not. We stayed closed the rest of the day.

9 Q About how many employees attended the meeting?

10 A There was about 15 to 20 of us.

11 Q And who ran the meeting?

12 A This first one, I believe was ran by M.K., and she
13 introduced herself. Sorry, it's hard to recall.

14 Really -- Allyson Peck was at that first one as well.

15 Q And what was said during the meeting by management
16 specifically?

17 A This first meeting was more just gener -- like, sort of,
18 like, a Q and A regarding the unionization.

19 Q Did you speak to management at all?

20 A I spoke to Allyson Peck.

21 Q And what did -- why did you talk to her?

22 A So there -- I -- Starbucks has a policy where -- I don't
23 know the name of it. But you're not supposed to have a close
24 friendship with your superior, so a barista isn't supposed to
25 be friends with a shift supervisor, because it could cause

1 favoritism. So she welcomed my question, and I sat down with
2 her, and I asked her about it. And she agreed with me that it
3 wasn't really fair given that, you know, your Starbucks
4 coworkers become your family. And she said she would look into
5 and get back to me.

6 Q Did you talk to her during the meeting or after the
7 meeting?

8 A It was after the meeting had ended.

9 Q And why -- why did you talk to her specifically?

10 A Just because of her -- I knew she was pretty high-ranking
11 in the company. And I couldn't get -- really get a solid
12 answer on my manager Joe at the time.

13 Q Were you paid to attend this meeting in September?

14 A Yes.

15 Q Did you attend any other meetings after this first one?

16 A Yes, I did.

17 Q When was the next meeting you attended?

18 A The next meeting was about two weeks after the first one.

19 Q And how did you learn about that meeting?

20 A That one, I -- our store manager, Joe, sent out a text
21 about it to all of us.

22 Q Do you remember exactly what the text said about the
23 meeting?

24 A It said along the lines of there's a store meeting next
25 week to answer some questions, you're strongly encouraged to

- 1 attend, it's from this time to this time.
- 2 Q And what time was the meeting you attended?
- 3 A This one, I believe was also about 4:00.
- 4 Q Where was the meeting held?
- 5 A This one was also held at our store, Transit and Maple.
- 6 Q Was the store opened or closed to the public for this
- 7 meeting?
- 8 A It was closed to the public.
- 9 Q And what time did it close?
- 10 A I believe, about 3 p.m.
- 11 Q And when should the store have closed that day?
- 12 A 9:00.
- 13 Q How long did the meeting last?
- 14 A This one was also about an hour. I think this one ran a
- 15 little bit longer.
- 16 Q Did the store reopen after this meeting?
- 17 A No, it did not.
- 18 Q How many employees attended the meeting?
- 19 A About 15 or 20 again.
- 20 Q And who ran this meeting?
- 21 A M.K. was there again, and then I believe this was when --
- 22 I believe Michaela was there, as well.
- 23 Q And what happened during this meeting?
- 24 A This one is a little foggy in my memory. I can't remember
- 25 exactly what the meeting was about.

1 Q Do you remember anything generally, what it was about?

2 A I believe there were some -- also some questions about the
3 union that were asked, and how that would affect us.

4 Q Were you paid to attend this meeting?

5 A Yes, we had to clock in for it.

6 Q Did you attend any other meetings?

7 A Yes, I did.

8 Q When was the next meeting you attended?

9 A The next meeting was late October, early November.

10 Q And where was that meeting held?

11 A So this meeting was different because they moved it to the
12 Marriott hotel at Sheridan (ph.) and Millersport.

13 Q How did you learn about that meeting?

14 A That meeting, I was handed an envelope with a sticker on
15 it that had my name and my store number, and my store manager
16 handed to us.

17 Q Did you read the letter?

18 A I did.

19 Q What did it say in general?

20 A It said something along the lines of we're changing the
21 format of our meetings to be able to include more partners,
22 and -- oh, yeah. Like that.

23 Q Did it say whether you had to go to the meeting or not?

24 A I believe so, but I can't remember exactly. I think it
25 was, again, strongly encouraged and said that we'd be paid for

1 our time.

2 Q And was the store opened or closed during this meeting?

3 A This, the store was closed.

4 Q When did the store close for the meeting?

5 A I believe it was 4:00 because I -- I want to say that my
6 group went at 5.

7 Q You said your group; were there more than one group?

8 A There was three, I believe.

9 Q When should the store close that day?

10 A 9:00.

11 Q And how many people attended the meeting that you
12 attended?

13 A So in my group, there was about eight of us.

14 Q And who ran this meeting?

15 A This meeting was primarily ran by Deanna Pusatier.

16 Q And what was discussed in this meeting?

17 A This one was based strictly on the union, questions about
18 it. There was PowerPoint that was presented that, in my
19 opinion, was strictly anti-union. And one thing that was
20 emphasized was we could get the same benefits, more benefits,
21 or less benefits. However, there was a lot of emphasis and
22 fear among my coworkers regarding the last time it was our --

23 MS. POLITO: Objection.

24 JUDGE ROSAS: Sustained. Sustained as to that last part.

25 MS. POLITO: Move to strike, Judge.

1 JUDGE ROSAS: Stricken.

2 Q BY MS. CACACCIO: Was any of those options emphasized in
3 the meeting?

4 A There was -- I tend to remember that there was a table
5 from Worker -- I believe it was Workers United where it showed
6 union dues. And there was the maximum union dues, and the
7 average union -- union dues. However, the maximum was the one
8 that was focused on and zoomed in on.

9 Q When you say table, do you mean, like, a -- not a physical
10 table, but --

11 A Yeah, like -- like a chart on a -- on a PowerPoint.

12 Q How long did this meeting last?

13 A This meeting was scheduled for an hour, I believe, but it
14 ended up going over.

15 Q Were you paid to attend this meeting?

16 A Yes.

17 Q I want to turn your attention to November 6th, 2021; did
18 you attend a meeting on that day?

19 A Yes, I did.

20 Q How were you notified about that meeting?

21 A That meeting, there were posters, fliers, in the back room
22 that said it was something along the lines of a Starbucks
23 partner experience with a special guest speaker.

24 Q Did you ever learn who that special guest speaker was?

25 A Yes. Come to -- found out it was Howard Schultz.

1 Q And who is Howard Schultz?

2 A Howard Schultz was, I believe, chairman of the board at
3 the time; he is now the CEO again.

4 Q And where was this meeting held?

5 A This meeting was held at a hotel downtown. I can't
6 remember exactly the name of it.

7 Q And what time was the meeting?

8 A I believe it was about 6:00.

9 Q Was your store open or closed during the meeting?

10 A Closed. I -- all of Buffalo area stores closed for the
11 day.

12 Q Were you compensated for attending this meeting?

13 A Yes, I was.

14 Q How was parking handled?

15 A So when I arrived at the event and checked in and had my
16 temperature taken, we were handed paper slips that had QR codes
17 on them. When we exited the parking garage, we were supposed
18 to be able to scan those and our parking would be free of
19 charge.

20 MS. CACACCIO: Your Honor, this is Joint Exhibit 1, which
21 we discussed earlier. I'm not going to play it because we
22 already went through all that.

23 Q BY MS. CACACCIO: Other than the meetings we just talked
24 about, were there any other meetings you attended?

25 A There was a -- a meeting in -- it was around

1 Christmastime --

2 Q Who ran that meeting?

3 A -- I remember. That one was ran primarily by Kimberly,
4 who was training to be a store manager at the time, our support
5 manager, Rich, and I also believe M.K. was there.

6 Q And who attended the meeting?

7 A Almost the entire staff at my store.

8 Q How did you learn about this meeting?

9 A I -- I think we -- it was sent out in a -- a group text
10 again.

11 Q By whom?

12 A I think it was Rich.

13 Q And how long did the meeting last?

14 A This one was about an hour or two, an hour and a half.

15 Q And where was it held?

16 A At Transit and Maple.

17 Q And was the store open or closed during this meeting?

18 A It was closed.

19 Q What time did the store close?

20 A It closed -- I remember it closed a little bit later.
21 Like, I believe it was 5 or 6.

22 Q And when should the store close that day?

23 A 9:00.

24 Q Did it reopen after the meeting ended?

25 A No.

1 Q What happened during this meeting?

2 A This meeting was about finding your purpose within the
3 Starbucks missions -- mission and values.

4 Q Was the Union discussed during this meeting?

5 A It -- it may have been, but it definitely wasn't the main
6 focus.

7 Q How did the -- for the meeting we just discussed, did the
8 Employer close the store for any other reason?

9 A Yes, we had -- I was present for two store resets.

10 Q What's a store reset?

11 A So in the store resets, we put up some extra shelving in
12 the backroom, we organized it, did some deep cleaning, change
13 our bar setup, and just generally made some improvements to the
14 store.

15 Q When was the first reset experience?

16 A This first one was I -- I think it was early October.

17 Q Of what year?

18 A 2021, sorry.

19 Q And prior to this reset, had you even been in a store that
20 had been reset?

21 A No, this was new.

22 Q How long was it -- the store closed during the October
23 reset?

24 A This -- the store didn't open at all. We were closed all
25 day.

1 Q How did you learn about the reset?

2 A I learned about it because I was scheduled outside of my
3 school availability, so I had discussed it with my manager
4 where, hey, I can't work this day, and he told me what was
5 going on and I ended up only needing to come for three hours of
6 it.

7 Q And what did you do when you worked during a reset?

8 A I was assigned to moving the shelving in the backroom and
9 label it.

10 Q And what was changed during this October reset?

11 A This one was the one where we added more shelving and
12 labeled things, moved some things around. I remember
13 specifically we moved the cold brew systems into a better spot.

14 Q When was the next reset you attended?

15 A The next reset was probably about a month after this first
16 one.

17 Q And what changed during that reset?

18 A That reset, I believe we added even more shelving along
19 the sinks for storage and shifted product around again. And I
20 believe we added, like, restock stations up front.

21 Q Was the store open or closed during the second reset?

22 A I t was closed.

23 Q And how long was it closed?

24 A I believe we closed the night before and just did not open
25 the morning after.



1 MS. CACACCIO: Your Honor, if I can have just one moment.
2 You probably want to go off, correct?

3 JUDGE ROSAS: Off the record.

4 (Off the record at 2:20 p.m.)

5 MS. CACACCIO: Your Honor, I have no further questions for
6 this witness at this time obviously subject to recall for the
7 conditions that we discussed ear -- earlier.

8 JUDGE ROSAS: Charging Party?

9 MR. HAYES: No questions.

10 JUDGE ROSAS: Off the record.

11 (Off the record at 2:21 p.m.)

12 **CROSS-EXAMINATION**

13 Q BY MS. POLITO: Ms. Emler, you began working for Starbucks
14 in August 2016; is that correct?

15 A That is correct.

16 Q And you worked as a shift supervisor until December of
17 2020?

18 A That's correct.

19 Q Why'd you stop being a shift supervisor?

20 A I stepped down from being a shift supervisor voluntarily.
21 I went back to school in January 2021, and between school and
22 the responsibilities of being a shift supervisor, I felt that
23 it was too much for me to handle at once.

24 Q And since you've stepped down from shift supervisor,
25 you've remained employed at Starbucks as a barista; is that

1 correct?

2 A That's correct.

3 Q You testified earlier that you were a barista trainer.

4 A Yes.

5 Q Isn't it true that in a role of barista trainer, prior to
6 March of 2020, you would spend a week with the barista at your
7 store; is that correct?

8 A That is correct.

9 Q And how much time would you spend with the barista trainee
10 during that week-long period?

11 A At least about 20 hours.

12 Q And isn't it true that the barista trainee would be
13 receiving training from others in addition to the barista
14 trainer?

15 A That's correct.

16 Q And do you know how much time that was spent?

17 A Not exactly. It's hard to recall.

18 Q And after the barista trainee --

19 A Um-hum.

20 Q -- was in the store, were they able to run the bar by
21 themselves on day eight?

22 A No, not -- not exactly. They weren't -- I mean, when
23 they're new, they're not up to speed for a couple of months,
24 but for the most part, they understood what they're doing.

25 Q When you were first hired by Starbucks, did you have

1 someone that trained you?

2 A Yes.

3 Q Were able to run the bar after day eight?

4 A No.

5 Q How many times did you act as a barista trainer between
6 January 2020 and March of 2020?

7 A I don't believe I trained anyone in that period formally.

8 Q How about the year before? January 1st, 2019, through
9 December 31st, 2019, how many times did you act as a barista
10 trainer?

11 A At least twice.

12 Q So two times in 2019, and when -- turning back to 2020,
13 the pandemic hit in March of 2020, and the stores were closed
14 for a period of time; is that correct?

15 A That's correct.

16 Q And when the stores reopened, were you at Transit and
17 Maple at that time?

18 A So when the stores originally reopened, I was at the
19 Niagara Falls drive-through location.

20 Q And that summer --

21 A Um-hum.

22 Q -- of 2020, did you serve as a barista trainer at all?

23 A No. What I was doing that summer was preparing for the
24 transition from being a supervisor at the kiosk location to
25 become one in a drive-through store.

1 Q Did you serve as a barista trainer at any time in the year
2 2020?

3 A I don't believe so.

4 Q Going back to 2021, did you serve as a barista trainer at
5 any time in 2021?

6 A I have, yes. I did train a few partners.

7 Q When?

8 A October 2021, when more partners started being hired, I
9 trained a few people on bar and customer support, but I wasn't
10 their exclusive trainer.

11 Q So between January and October of 2021, you do not, in
12 fact, train anyone as a barista trainer, correct?

13 A Not officially, no.

14 Q Okay. And so then October 2021 hits, and then you have
15 a -- you trained someone; is that correct?

16 A Yes.

17 Q And in October 2021, when you trained someone as a barista
18 trainer, that was, in fact, the time period when the company
19 had transitioned to single-store training model, correct?

20 A Right. Yeah.

21 Q So isn't it true, in fact, that you've lost no
22 opportunities with respect to barista training as a result of
23 moving towards a single-training facility?

24 MS. CACACCIO: Objection. Speculation. She can't know --

25 JUDGE ROSAS: Overruled.



1 MS. CACACCIO: -- what she would have lost.

2 JUDGE ROSAS: Overruled, if you know.

3 MS. CACACCIO: Your Honor, can I -- can I make a little
4 bit broader of an objection? This witness can't know what she
5 might have lost --

6 MS. POLITO: Right.

7 MS. CACACCIO: -- had they not done it given that she just
8 testified that she unofficially trained people. She can't know
9 who --

10 MS. POLITO: Your Honor, I'm going to object --

11 MS. CACACCIO: -- Respondent would have selected --

12 MS. POLITO: -- to Counsel testifying --

13 JUDGE ROSAS: Okay.

14 MS. POLITO: -- by way of her objection and -- and
15 giving -- leading the witness.

16 JUDGE ROSAS: All right. The -- the objection -- the
17 objection is overruled. The question is what you lost, if
18 anything.

19 THE WITNESS: I believe that those baristas that are
20 trained at the --

21 Q BY MS. POLITO: I'm not asking you what you believe about
22 other baristas. I'm asking you specifically based on the
23 testimony that you just gave me, which was --

24 A Okay.

25 Q -- that you did not train anyone at all during the year

1 2021 until October of 2021. Do you recall that testimony?

2 A Yes.

3 MS. CACACCIO: Objection. Argumentative.

4 JUDGE ROSAS: All right. Counsel, just as -- as we
5 continue, allow the witness to answer, move to strike if non-
6 responsive.

7 MS. POLITO: Okay.

8 JUDGE ROSAS: Okay? Don't interrupt.

9 Q BY MS. POLITO: So during that time, you were not
10 precluded from acting as a barista trainer; isn't that correct?

11 A Yes.

12 Q When you returned to work in 2020 after the stores were
13 allowed to reopen, you would agree that some of the stores that
14 you worked at were in a state of disrepair, correct?

15 A Yes.

16 Q Some of them may have had cracked countertops or pest
17 problems, correct?

18 A Yes.

19 MS. CACACCIO: Objection. Assumes facts not in evidence.

20 JUDGE ROSAS: Cross-examination. Overruled. If you know.

21 Q BY MS. POLITO: And when --

22 JUDGE ROSAS: She answered yes.

23 Q BY MS. POLITO: And when you returned to work there was a
24 new set of rules regarding COVID protocols, correct?

25 A That is correct.

1 Q Daily COVID screenings, correct?

2 A Yes. Wearing masks.

3 Q Wearing masks, correct?

4 A Yes.

5 Q And wouldn't you also agree that as a result of the
6 reopening of the stores that there were staffing shortages in
7 the stores, correct?

8 A Yes, there was.

9 Q In fact, many people chose not to return to work during
10 that time period; isn't that correct?

11 MS. CACACCIO: Objection. Speculation as to why people
12 didn't return to work.

13 JUDGE ROSAS: She can --

14 MS. POLITO: I'm going to object again --

15 JUDGE ROSAS: Over --

16 MS. POLITO: -- to Counsel --

17 JUDGE ROSAS: Overruled. Overruled. You can answer if
18 you know.

19 THE WITNESS: Some people weren't com -- comfortable
20 returning to work --

21 MS. CACACCIO: Objection. Hearsay.

22 A -- with the -- sorry.

23 JUDGE ROSAS: Sustained.

24 Q BY MS. POLITO: When you returned to work after the stores
25 reopened, there was staffing shortages, correct?



1 MS. CACACCIO: Objection. Lack of foundation, lack of
2 knowledge.

3 JUDGE ROSAS: Hold on. If you know. Overruled.

4 THE WITNESS: So some partners were not comfortable coming
5 back to work.

6 MS. CACACCIO: Objection. Hearsay.

7 MS. POLITO: She -- she can't just --

8 JUDGE ROSAS: I'll let her probe. I'll let her probe.
9 Overruled.

10 THE WITNESS: Okay. Like I said --

11 JUDGE ROSAS: Foundation.

12 THE WITNESS: There was an option for partners to take a
13 paid leave if they were not comfortable returning with the
14 COVID pandemic in full swing.

15 Q BY MS. POLITO: And to your knowledge, some of your fellow
16 partners took that option; is that correct?

17 MS. CACACCIO: Objection.

18 A That's correct.

19 MS. CACACCIO: Hearsay.

20 JUDGE ROSAS: Overruled. She answered.

21 MS. CACACCIO: Just be --

22 JUDGE ROSAS: No. It's overruled regardless, but she's
23 answered. You don't have to repeat it.

24 Q BY MS. POLITO: You testified to us earlier that the Union
25 went public with organizing campaign in August; is that

1 correct?

2 A Yes.

3 Q How did you first learn about the Union organizing?

4 A I noticed an Instagram page, and I had some close friends
5 from stores I had previously worked directly involved with it.

6 Q Were you invited to join that Instagram page?

7 A I was -- I think I just followed it on my own because I
8 was, honestly, just curious as to what it entailed.

9 Q So if you followed it on your own, how did you find it?
10 Did someone tell you that it was there?

11 A I think it, honestly, popped up in my recommended.

12 Q Okay. And you don't recall the specific date in August,
13 just sometime in August; is that correct?

14 A No, I don't.

15 Q And you -- and at this time, in August of 2021, you were
16 working at the Transit/Maple store, correct?

17 A The previous location that used to be the store that
18 became the Transit and Maple.

19 Q Okay.

20 A Um-hum.

21 Q So Eastview became Transit/Maple --

22 A Correct.

23 Q -- is that correct?

24 A Correct.

25 Q And that's where you were continuously working, correct?

1 A Yes.

2 Q And before that, due to staffing shortages, you were
3 assisting in a variety of stories that you testified to
4 earlier; is that correct?

5 A Yes, I was just picking up shifts where they needed them
6 since I wasn't in school at the time.

7 Q And you testified earlier that your district manager was a
8 gentleman by the name of David LeFrois. Do you remember that?

9 A Yes.

10 Q And you testified that he came in more frequently, at
11 least three times a week. Do you remember that?

12 A Yes, I do.

13 Q Do know that he was let go from Starbucks in September --
14 on September 8th of 2021?

15 A I do.

16 Q So how many weeks was he there more frequently than in the
17 past between August and September 8th?

18 A In reality, it was probably only two weeks. However,
19 looking back, it feels like there was more visits.

20 Q It felt like it --

21 A It was --

22 Q -- was longer, but it was likely only a two-week period --

23 A Yes.

24 Q -- is that correct?

25 A Yes, but he was there a little more often.



1 Q And during the time that Mr. LeFrois was there, you never
2 spoke with him; is that correct?

3 A No.

4 Q Then you chose to spoke with Rossann Williams when she
5 came to town; is that correct?

6 A Yes, I did.

7 Q And you shared with her some concerns about your store
8 manager, correct?

9 A Um-hum.

10 Q Yes?

11 A Yes, I did.

12 Q That he wasn't doing a very good job at the time, was he?

13 A Um-hum.

14 MS. CACACCIO: Objection.

15 JUDGE ROSAS: Overruled. She answered yes.

16 MS. CACACCIO: No, she didn't answer yet, Judge.

17 JUDGE ROSAS: She didn't answer yes?

18 MS. CACACCIO: No.

19 JUDGE ROSAS: What was your answer, ma'am?

20 THE WITNESS: He wasn't performing as well as he should
21 have been at the time.

22 JUDGE ROSAS: Okay.

23 Q BY MS. POLITO: Had you shared that --

24 JUDGE ROSAS: Overruled.

25 Q -- with anyone other than Ms. Williams?

1 A Not anybody from upper management, but there was
2 discussion among the workers in the store because other workers
3 shared my same concerns.

4 Q And did any of those workers that shared the concerns with
5 you with respect to your manager share those concerns with
6 anyone else that you're aware?

7 A Not that I know of.

8 Q And you testified earlier that after you spoke with Ms.
9 Williams, your manager, Joe, told you not to talk to anyone
10 else and threatened you with disciplinary action; is that
11 correct?

12 A That is correct.

13 Q Did you, in fact, get any disciplinary action?

14 A No. It was a warning.

15 Q And after you talked to Joe and he made that threat to
16 you, did you talk to anyone at Starbucks about that alleged
17 threat?

18 A I don't -- I may have told a few of my closer co-workers,
19 but not anyone in a higher role than them.

20 Q And your fellow coworkers would have been fellow baristas,
21 not managers?

22 A That is correct.

23 Q And after you have this conversation where Joe allegedly
24 threatened you, you testified earlier that you spoke with Ms.
25 Peck at one of the listening sessions. Do you recall that?

1 A Yes.

2 Q Why didn't you tell Ms. Peck that Joe threatened you?

3 A I'm not sure.

4 Q Why didn't you tell Rossann Williams that your store
5 manager threatened you?

6 MS. CACACCIO: Objection. Relevance. Who she --

7 JUDGE ROSAS: I'll sustain that. Did you -- did you tell
8 her anything?

9 THE WITNESS: No, I didn't.

10 JUDGE ROSAS: Okay.

11 THE WITNESS: I didn't have contact information for those
12 people.

13 Q BY MS. POLITO: What exactly were Joe's shortcomings as
14 store manager?

15 A He was often condescending to his employees instead of --
16 there was multiple times where my fellow co-workers came in
17 direct contact with people who were positive with COVID, and he
18 did not have them isolate.

19 Q And other than talking to Rossann Williams about his
20 failure to follow the COVID protocols, you didn't talk to
21 anyone else about that in management; is that correct?

22 MS. CACACCIO: Objection. Asked and answered.

23 JUDGE ROSAS: Hold on.

24 THE WITNESS: No, I don't think so.

25 JUDGE ROSAS: Anyone -- anyone other than Ms. Peck or Ms.

1 Williams?

2 THE WITNESS: Not that I can recall.

3 Q BY MS. POLITO: You testified earlier that you attended a
4 number of store meetings; was that correct?

5 A Yes.

6 Q And none of those meetings were mandatory; isn't that
7 correct?

8 A I -- honestly, I not quite sure if they were mandatory or
9 not. I attended them because I was scheduled for them.

10 Q You testified earlier that you felt as if they were
11 strongly encouraged. Do you recall that testimony?

12 A Yes, I do.

13 Q And there's nothing in writing telling you that they were
14 mandatory readings; isn't that correct?

15 A Not that I had with me, no.

16 Q Not that you had with you and not --

17 A Not that I have evidence of, yeah.

18 Q That's correct.

19 A Yeah.

20 Q You testified earlier that there were support managers
21 that came to the store; is that correct?

22 A Yes.

23 Q And since Joe was such a bad store manager, that was
24 probably helpful; isn't that correct?

25 MS. CACACCIO: Objection.

1 MS. POLITO: To what? It's cross-examination.

2 JUDGE ROSAS: Counsel, no cross discussion. Repeat the
3 question.

4 Q BY MS. POLITO: You testified earlier that there was
5 support managers sent to the store during the fall of 2021, is
6 that correct?

7 A Yes.

8 Q And since Joe was such a bad store manager, they probably
9 helped; isn't that correct?

10 A In some respects, yes. Rich did help us out.

11 Q And was Richard the only support store manager that was
12 there?

13 A Yes.

14 Q And Richard never told you not to organize; isn't that
15 correct?

16 A No, he didn't have any direct conversations relating to
17 the Union at all, at least not with me.

18 Q You testified at one of the listening sessions that there
19 was a discussion about Union dues. Do you recall that
20 testimony?

21 A Yes.

22 Q Do you recall that Ms. Eisen also talked at that listening
23 session about Union dues?

24 A I do not.

25 Q Okay. You also told us earlier that M.K., who's sitting

1 at Counsel table, Michaela Murphy, came into the store and had
2 conversations with the employees on a -- at different times,
3 correct?

4 A Yes.

5 Q And isn't it true that during all of those occasions that
6 they were in the store, they never dissuaded you from Union
7 activities?

8 A No, because I never have publicly supported the Union.

9 Q Okay. But they also never said anything to you about not
10 supporting the Union, correct?

11 A Not to me, no.

12 Q Earlier, you testified that, at times, the stores close
13 early due to some of these meetings. Do you recall that
14 testimony?

15 A Yes.

16 Q How do you know what time the stores were scheduled to
17 close?

18 A I -- they were scheduled to close at 9 per our regular
19 schedule.

20 Q Were -- isn't it true, though, that sometimes the schedule
21 would be adjusted based on staffing issues?

22 A Yes, but at this time, we were still closing at 9:00.

23 Q But there were times once those stores reopened after the
24 shutdown in 2020 that the stores were closed due to staffing
25 shortages, correct?

1 A Yes, that is true, but not at the time that those were
2 being held.

3 Q And how do you know that?

4 A Because I recall them closing at 9, and we had regular
5 staffing at that time in September and October. We were able
6 to be open until 9.

7 Q In all of the meetings that you held -- that you --

8 MS. POLITO: Strike that.

9 Q BY MS. POLITO: All of the meetings that you testified
10 that you attended related to the Transit and Maple store only;
11 is that correct?

12 A Yes. I mean, except for the meeting with Howard Schultz.

13 Q That -- that's the November 6th meeting, correct?

14 A Yes.

15 Q Do you recall in 2019 that there was a meeting held by a
16 regional director at Starbucks -- from Starbucks?

17 A I believe. I -- honestly, I don't recall that one.

18 Q Do you recall, in your affidavit, telling that --

19 A Oh. The shift supervisor roundtable meeting?

20 Q I'll ask you again. In 2019, do you recall attending a
21 meeting with a regional director to discuss shift supervisors?

22 It apparently was a roundtable meeting. Do you recall that?

23 A Yes.

24 Q Do you know who that regional director was?

25 A I believe his first name was Damien, but he wasn't -- he

1 didn't actually make it to that meeting. That meeting was held
2 with David LeFrois.

3 Q With respect to the resets that you talked about earlier,
4 isn't it true that the stores, in fact, needed those repairs to
5 get completed?

6 A Our store is -- at the time, was less than a year old, or
7 just over a year old. We weren't necessarily needing repairs.
8 While some of the resets were helpful, parts of it led to a lot
9 of confusion for partners who weren't there when the reset was
10 performed.

11 Q And this is, again, just at the Transit/Maple store,
12 correct?

13 A Correct.

14 Q Your current store manager is Amy; is that correct?

15 A No, my current store manager is Kimberly Roberts.

16 Q Kimberly Robert.

17 A Yes.

18 Q Sorry about that. And Kimberly works about five days a
19 week in the store; is that correct?

20 A Yes.

21 Q Do you remember learning sometime in 2020 that the company
22 had embarked on a decision to do a nationwide wage increase?

23 MR. HAYES: Objection. Relevance.

24 JUDGE ROSAS: Hold on.

25 MR. HAYES: Beyond the scope.

1 JUDGE ROSAS: Hold on. What's this connected to?

2 MS. POLITO: It's on page 10 of her affidavit, Judge.

3 MS. CACACCIO: Your Honor, I --

4 JUDGE ROSAS: What's it connected to on direct
5 examination?

6 MS. POLITO: I don't think she was asked questions about
7 it on direct examination, but it's in her affidavit.

8 MS. CACACCIO: Your Honor --

9 MS. POLITO: And it's relevant.

10 JUDGE ROSAS: Overruled.

11 MS. CACACCIO: If --

12 JUDGE ROSAS: I mean, I'm sorry. I'm sorry. Sustained.
13 Sustained.

14 MS. CACACCIO: Okay.

15 MS. POLITO: Note my objection for the record, Judge.

16 JUDGE ROSAS: It's beyond the scope of direct.

17 Q BY MS. POLITO: With respect to your current store
18 manager, Kimberly, she spends about 80 percent of her time on
19 the floor with the fellow baristas; is that correct?

20 A Yes.

21 Q Were there any meetings at Transit and Maple that were
22 held that you were unable to attend?

23 A I believe there was one that was held when I had tempor --
24 or when I had transferred to the Tonawanda store.

25 Q You didn't get any consequence for not attending that

1 meeting, did you?

2 A No, because I wasn't part of the store at the time, so it
3 didn't directly affect me.

4 Q When -- when Joe was the store manager, he didn't work on
5 the floor with you, or did he work on the floor with you?

6 A He did.

7 Q He did. But your current store manager, Kim, works on the
8 floor with you more often than Joe.

9 A Yes. She's in the store more often.

10 MS. POLITO: Judge, I have no further questions, but I
11 reserve the right to recall the witness to question her with
12 respect to material in her affidavit.

13 JUDGE ROSAS: I'm sure what that means, but redirect, if
14 any, General Counsel.

15 **REDIRECT EXAMINATION**

16 Q BY MS. CACACCIO: Madison, who decides whether you train
17 baristas or not?

18 A I'm not -- obviously, I'm not sure of the structure at
19 this time of barista training.

20 Q Do you get to make the choice?

21 A I have been asked in the past if I wanted to train
22 someone, and I've been given the option to say yes and no.

23 Q And who is the person that asks you that?

24 A It was the store managers.

25 Q How many -- how many employees have -- how many new

1 employees have joined your store since training was
2 centralized?

3 MS. POLITO: Objection. Outside the scope of cross.

4 JUDGE ROSAS: Hold on.

5 How many have joined the -- the store since?

6 MS. CACACCIO: Training was centralized. Respondent
7 discussed centralized training extensively in her -- and tested
8 her knowledge about whether she would know if she should have
9 been training people or not.

10 JUDGE ROSAS: Close enough. Overruled.

11 You can answer, if you know.

12 A About ten.

13 Q You testified that you had trained people in October 2021.
14 Were you given a bonus for doing that?

15 A I be -- I would have to look back. I believe I was, but
16 I'm not positive.

17 Q In October 2021 after training was centralized?

18 A Oh, no, I didn't receive bonuses at that time. I believe
19 that those went to the trainers at the centralized stores, but
20 I'm not positive.

21 Q And how many of these informal trainings did you do after
22 training was centralized?

23 MS. POLITO: Objection; outside the scope of cross. I
24 never once asked her about informal training.

25 JUDGE ROSAS: Hold on.

1 MS. CACACCIO: If I might be heard?

2 JUDGE ROSAS: Go ahead.

3 MS. CACACCIO: The witness talked about the training she
4 performed in October 2021, and this is just a logical outbreak
5 of that.

6 JUDGE ROSAS: What -- what -- what is?

7 MS. CACACCIO: The question I just asked her.

8 JUDGE ROSAS: So what she testified to was that in October
9 2021 she did a training.

10 MS. CACACCIO: And then I'm asking her about that
11 training.

12 JUDGE ROSAS: About that training?

13 MS. CACACCIO: Yes, the trainings she gave in October
14 2021.

15 JUDGE ROSAS: Okay, specifically that one.

16 Go ahead. You can answer.

17 A Okay. So when these baristas came to us at that time,
18 they had been trained at the centralized store. However, since
19 each store it -- they do operate a little bit differently --
20 it's just how it goes -- they had some knowledge gaps that I
21 helped -- compelled to help them out with.

22 Q And how many people did you help out with that?

23 A I've --

24 MS. POLITO: Objection. Asked and answered.

25 JUDGE ROSAS: How many people did she help with what?

1 MS. CACACCIO: Training.

2 A That I've helped to --

3 JUDGE ROSAS: Overruled.

4 You can answer.

5 A That I've helped to informally train since I came?

6 Q Yes.

7 A At least eight people.

8 MS. CACACCIO: Just a second, Your Honor. No further
9 questions for this witness at this time, Judge.

10 MR. HAYES: No questions.

11 JUDGE ROSAS: Redirect?

12 MS. POLITO: No questions, Judge.

13 JUDGE ROSAS: Thank you, ma'am. You're excused. Please
14 do not discuss your testimony with anyone, okay?

15 THE WITNESS: Yes.

16 JUDGE ROSAS: Off the record.

17 (Off the record at 3:10 p.m.)

18 JUDGE ROSAS: On the record. Next witness.

19 MS. CACACCIO: Yes, Your Honor. Oh, this is Ms. Hunter.

20 Or --

21 JUDGE ROSAS: Who do you call?

22 MS. CACACCIO: Alexis or Kai Hunter.

23 JUDGE ROSAS: Raise your right hand.

24 Whereupon,

25 **ALEXIS "KAI" HUNTER**



1 having been duly sworn, was called as a witness herein and was
2 examined and testified as follows:

3 JUDGE ROSAS: All right. Have a seat. Loudly state and
4 spell your name and provide us with an address.

5 THE WITNESS: I'll go ahead with my legal name first and
6 then my preferred name, if that's okay. First name --

7 JUDGE ROSAS: I'm sorry, what?

8 THE WITNESS: My legal name first and then my preferred
9 name, if that's okay.

10 JUDGE ROSAS: What -- what -- what's your -- what's your
11 legal name?

12 THE WITNESS: Legal name, Alexis Hunter, A-L-E-X-I-S
13 H-U-N-T-E-R for the last name. And then my preferred name and
14 the one I went by during my time at Starbucks is Kai, K as in
15 Kevin, A-I, last name Hunter as well.

16 JUDGE ROSAS: And your address?

17 THE WITNESS: It's (b) (6), (b) (7)(C)

18 (b) (6), (b) (7)(C)

19 **DIRECT EXAMINATION**

20 Q BY MS. CACACCIO: Good afternoon. Can you just -- I think
21 you may have just said it, but what name did you go by when you
22 worked at Starbucks Corporation?

23 A I went by Kai.

24 Q And what are your pronouns?

25 A They/them.

1 Q When did you work for Starbucks Corporation?

2 A I worked with Starbucks from August of 2021 until April
3 26th of 2022.

4 Q Who hired you?

5 A I was hired by my store manager Jodi Keller (phonetic
6 throughout) and then my assistant store manager at the time
7 Tanner Reese (phonetic throughout).

8 Q And what was that hiring process like?

9 Q For that hiring process I went for an interview at my
10 store that I was going to be working at, which was Regal
11 Lancaster. And I sat with them for about 20 minutes. I had a
12 drink on the house. We kind of just talked about what the
13 culture at Starbucks was like over -- I believe it was a
14 chocolate croissant, and then they said they would tell me how
15 they felt within the next week.

16 Q What location did you work at when you worked for
17 Starbucks?

18 A I worked at the Regal Lancaster location.

19 Q Does that store go by any other name?

20 A Transit Regal, maybe Transit Lancaster, Regal Lancaster.

21 Q Did you ever work in any Starbucks location other than the
22 Regal Lancaster location?

23 A I have, yes.

24 Q Where did you work?

25 A I worked at the airport/Genesee Street location from -- I



1 believe it was the second week of October for about ten days.

2 And then I did F shift at Sheridan and Bailey for a day, I
3 believe, around the holidays.

4 And then I also worked at the airport location again from
5 about April 1st until when I left at the end of April of 2022.

6 Q Why were you with the airport store in April?

7 A I was at the airport store in April because my home store
8 at Regal Lancaster was closing for renovations.

9 Q How were you trained upon your hiring?

10 A When I was trained upon my hiring I spent, I think, about
11 the first half of my shift going over training models around
12 the computer and -- and then filled out introductory paperwork.
13 And then I was introduced to Ash Rybalt (phonetic throughout),
14 who would be my training barista, who I spent most of my time
15 with training. She showed me every aspect of bar, of the
16 drive-through, of customer support, and showed me the ins and
17 outs of working at Starbucks.

18 Q How long were you paired with Ash?

19 A I was paired with Ash for about two weeks.

20 Q And what store was your trainer from?

21 A My trainer was also from Regal Lancaster.

22 Q And where was your training being held?

23 A My training was also being held at Regal Lancaster.

24 Q Are you familiar with the union Workers United?

25 A Yes, I am.

1 Q How are you familiar with the Union?

2 A I'm familiar with the union because a friend of mine and
3 fellow organizer, Brian Murray (phonetic throughout), who works
4 at the Regal Lancaster store, approached me pretty early in my
5 hiring and asked me what my thoughts on unions were. I told
6 him because I was a social science major, I was a pretty big
7 fan. And he told me about the Starbucks campaign, and I was on
8 board.

9 Q Did you join the organizing committee?

10 A I did.

11 Q When did you do that?

12 A I joined the organizing committee sometime during the last
13 week of August, I believe; I would say probably was August
14 27th.

15 Q And what, if anything, do you do to show your union
16 support at work?

17 A I would speak openly and proudly about the union, and I
18 would wear my Starbucks Workers United pin.

19 Q What pin did you wear?

20 A I wore a Starbucks Workers United pin with the shaker fist
21 and it had a rainbow pride flag.

22 Q Were those the only Workers United pins that you wore?

23 A I wore that one for most of my time around there. And
24 then around Valentine's Day of 2022 I also received one for the
25 seven union organizers from the Memphis location that were

1 fired unjustly. It was to support the Starbucks Memphis seven.

2 MS. POLITO: Objection to the witness' answer with respect
3 to the Memphis seven and ask that it be stricken from the
4 record.

5 JUDGE ROSAS: That portion will be stricken.

6 MR. HAYES: Just the word "unjustly", Judge? Because the
7 rest of it's relevant.

8 JUDGE ROSAS: Correct.

9 Q BY MS. CACACCIO: And how often did you wear those pins?

10 A I wore them on my apron every shift.

11 Q When did you start to wear them?

12 A As soon as I received them. So when I received the LGBT
13 flag shaker pin, it was around, I believe, right around Labor
14 Day of 2021.

15 And then when I received the Memphis seven one, like I
16 said, that one was right around Valentine's Day of 2022.

17 Q So after you became involved in the Union campaign, did
18 you attend any meetings with the company?

19 A I did, yes.

20 Q How many meetings did you attend?

21 A Let's see. I attended about four in total.

22 Q When was the first meeting you attended?

23 A The first meeting I attended was September 3rd, I believe
24 it was, at the Main Street location.

25 Q How did you hear about that meeting?

1 A I heard about that meeting from fellow union organizer
2 Alexi Rizzo (phonetic throughout), and then I heard it was open
3 to the district for anyone to attend if they'd like to.

4 Q And where was that meeting held?

5 A That meeting was being held at Main Street location over
6 in Williamsville.

7 Q And what time was the meeting?

8 A I don't remember the exact time, but I do believe sometime
9 in the early afternoon.

10 Q And who ran this meeting?

11 A The meeting was run by Rossann Williams. The meeting was
12 also run by a woman named Deanna. A woman named Melanie, I
13 believe, was also there as well.

14 Q And how many employees attended the meeting?

15 A I think about 20 employees attended this meeting.

16 Q How about -- how long did it last?

17 A I think it lasted about two hours.

18 Q When was the next meeting you attended?

19 A The next meeting I attended was at the end of the month.
20 It was September 22nd.

21 Q And how did you hear about that meeting?

22 A I heard about that meeting because it was held at my home
23 store; my manager told me about it.

24 A Do you remember which manager told you about it?

25 Q I think my assistant store manager, Tanner Reese, was the

1 one that told me about it.

2 Q And what did Tanner say?

3 A I believe that Tanner had said that we were going to be
4 closing the store earlier that day, I believe probably around
5 5:00 or so, to have a meeting with Mark Szto, who was from, I
6 believe, the San Francisco district somewhere; I think he was
7 the district manager. Rossann was going to stop in and say
8 hello, but she wasn't going to be staying. And then I believe
9 we also had -- I think we had Deanna there as well. And they
10 were going to just kind of talk to us.

11 Q Did you hear about whether you had to attend the meeting
12 or not?

13 A I did hear that it was going to be mandatory because we
14 were going to be getting paid.

15 Q And who told you that?

16 A My assistant store manager as well.

17 Q So where -- where was the meeting held?

18 A The meeting was held at my store, the Regal Lancaster
19 location.

20 Q What time was the meeting?

21 A It was held -- I think the store closed around 5:00 p.m.
22 for about a 6:00 p.m. meeting.

23 Q What time would the store have normally closed that day?

24 A I think the store was closing around 9 p.m. that time.

25 Q Who ran this meeting?



1 A This meeting was run by Tanner, Mark Szto, and then if
2 Deanna and Melanie were both there, I know they were talking as
3 well.

4 Q How many employees attended the meeting?

5 A Everyone from my store, I believe, except for maybe like
6 one or two people who would have been sick or out of town.

7 Q And how long did it last?

8 A This one lasted a little over two hours.

9 Q When was the next meeting you attended?

10 A The next meeting I attended was the following week,
11 exactly a week out. So I believe that would be -- put me at
12 September 29th or 30th.

13 Q How did you learn about this meeting?

14 A When I learned about this meeting -- I learned about it
15 while I was working the shift that I was going to be working
16 directly into that meeting at.

17 Q How did you -- so how did you learn about it?

18 A I came in for my shift that day, and my manager told me
19 that I was staying after for a meeting.

20 Q And what manager was that?

21 A I believe it was Jodi -- Jodi Keller.

22 Q Were you told anything else about your attendance at that
23 meeting?

24 A I was told that it would be mandatory as well. We were
25 also going to be getting paid for it.

1 Q Where was this meeting held?

2 A This meeting was also held at the Regal Lancaster
3 location.

4 Q About what time was this meeting?

5 A This meeting was a little earlier in the afternoon; I
6 think it started around 3.

7 Q Was the store opened or closed during this meeting?

8 A The store was closed for the meeting.

9 Q Who ran this meeting?

10 A This meeting was also run by Tanner, as well as Mark Szto,
11 and then we had four more people come that I hadn't really
12 recognized super familiarly at the time, someone named Louis
13 (phonetic throughout) from the Chicago region and then someone
14 named Chris, who I think is from Partner Resources, and I
15 believe he was based in Atlanta or somewhere in the South, he
16 had told me.

17 Q What time was the store supposed to close that day?

18 A I believe the store was supposed to close around 9 p.m. as
19 well.

20 Q How many employees attended this meeting?

21 A I think about 25.

22 Q And how long did it last?

23 A This one was about two hours.

24 Q Can you tell the Court what happened at this meeting?

25 A This is the second meeting, right?

1 MS. POLITO: Objection. The witness is not allowed to
2 ask --

3 JUDGE ROSAS: I didn't -- I didn't hear -- I didn't hear
4 what you said.

5 THE WITNESS: Oh, I was just asking was the first
6 listening session or the second listening session at my store
7 was all.

8 Q BY MS. CACACCIO: It's the one we were just talking about.

9 A Okay.

10 JUDGE ROSAS: I still don't understand what you're --
11 Repeat the question you asked her.

12 MS. CACACCIO: Yes, Judge.

13 Q BY MS. CACACCIO: What happened at the listening session
14 that you attended, this one where you were scheduled for it the
15 day of your shift when you learned about it?

16 A Okay. So for that listening session, we just kind
17 introduced ourselves, and the people who were running the
18 meeting also introduced themselves, where they were from, their
19 background at Starbucks, and that type of thing for about 45
20 minutes. And then it jumped pretty quickly into discussion
21 about unions because Chris was pulled -- Chris was brought from
22 Atlanta to talk about unions for us.

23 MS. POLITO: Objection. The witness doesn't know why
24 Chris was brought in.

25 JUDGE ROSAS: Who is Chris?

1 THE WITNESS: He was from Partner Resources. I don't know
2 exactly what his position was there.

3 JUDGE ROSAS: So you -- you're jumping ahead.
4 I'm going to strike the answer.

5 Repeat and establish the foundation before you get to
6 there, all right?

7 Q BY MS. CACACCIO: What did -- what, if anything, did Chris
8 say about why he was in the meeting?

9 A Chris said he was at the meeting because he knew a lot
10 about unions.

11 Q And so what did he say about unions in the meeting?

12 A I'm having a hard time recalling.

13 Q That's okay. Did they talk about anything about what
14 would change if a union came in?

15 MS. POLITO: Objection. Leading.

16 JUDGE ROSAS: Sustained.

17 MS. CACACCIO: Your Honor, may I be heard? It doesn't
18 suggest an answer. She can freely say yes or no.

19 JUDGE ROSAS: No. Sustained.

20 Let's see if the witness remembers anything about the
21 meeting.

22 Q BY MS. CACACCIO: Do you remember anything else about this
23 meeting?

24 A I just remember that I -- I genuinely had to shut down
25 during this meeting because the meeting the prior week had put

1 me, like, in (audio interference) --

2 MS. POLITO: Objection. Nonresponsive.

3 JUDGE ROSAS: You're -- you're kind of fading out towards
4 the end.

5 And let's wait for the answer, and then we can move to
6 strike, if at all.

7 Repeat your answer, ma'am.

8 THE WITNESS: I don't remember much pertaining to this
9 meeting on September 29th just because of my emotional state
10 going into the meeting due to the state of my emotion -- or due
11 to my emotional state from the prior meeting. I had been --

12 JUDGE ROSAS: Hold on. Stop there.

13 Okay. Now, do you want to follow up with that?

14 MS. POLITO: Objection. Nonresponsive.

15 JUDGE ROSAS: I'll allow that one to stand. Let's --
16 let's see where you want to go with it.

17 Q BY MS. CACACCIO: Did you speak up at all in this meeting?

18 A I did not.

19 Q When was the next meeting you attended?

20 A The next meeting I attended was the meeting at the
21 Courtyard Marriott.

22 Q And do you remember how you learned about it?

23 A I was invited with a written invitation or a typed
24 invitation by my assistant store manager, Tanner Reese.

25 Q And what did the invitation say, if you remember?

1 A So this invitation said something like we need to --
2 you're invited to come to the Courtyard Marriott. And I think
3 it had something to do with some food and drink, and we were
4 going to be talking with some people from corporate. And they
5 gave me, like, a date and a time, and I was scheduled to go in
6 from around 8 p.m. I think this took place sometime in
7 November.

8 Q Why do you remember what time it was?

9 A I was a frequent opener during my time at Starbucks, and I
10 had to open the next morning.

11 Q What, if anything, did this letter say about attendance at
12 the meeting?

13 A Attendance was mandatory. And if we were unable to make
14 our scheduled time, we had to reach out to our manager or
15 Tanner and reschedule.

16 Q Did you attend the meeting as scheduled?

17 A I did.

18 Q Who ran the meeting?

19 A This meeting was run by Mark Szto. This meeting was also
20 run by Melanie Joy. And there was another one there, and I
21 just can't remember her name.

22 Q About how many employees attended the meeting?

23 A There were six of us there.

24 Q About how long did it last?

25 A This meeting was also about two hours.

1 Q Can you describe for the Court what happened at this
2 meeting, if you remember?

3 A For this meeting we sat down and we watched a PowerPoint
4 presentation that was given to us by Starbucks about kind of
5 the history of Workers United and some concerns that they might
6 have.

7 Q Earlier you testified that you worked elsewhere because
8 your store underwent a renovation. Do you remember when that
9 happened?

10 A Yes. Our store underwent two different renovations. They
11 underwent the first one temporarily -- it was a short
12 renovation during the middle of October that lasted about a
13 week and a half.

14 And the second time was from end of April, and I believe
15 it went until the end of May.

16 Q And what was changed after the October renovation?

17 A After the October renovation, not much was changed, but
18 there was a lower counter and a longer hand off plane for
19 mobile orders and cafe orders.

20 Q Was this an issue that had been discussed with management
21 before?

22 A This was an issue that was discussed with management, and
23 then it was also something that was brought up during our first
24 listening session.

25 Q What were you told about the Employer's dress code when

1 you were hired?

2 A I was told about the Employer's dress code. I was given
3 the pamphlet with the different colors of shirts and pants that
4 are acceptable to wear, and then, obviously, the things like no
5 nail polish because that's a food hazard, and a couple other
6 things for dress code.

7 Q Did anyone ever talk to you about the dress code?

8 A Yes, I had.

9 Q What happened?

10 A I had been spoken to about the dress code sometime in
11 November because my shoes -- my shoes were white, which was
12 against dress code.

13 Q How long had you been wearing those shoes to work?

14 A I had been wearing those shoes since my first day, on
15 August 2nd.

16 Q And who talked to you about your shoes?

17 A My assistant store manager, Tanner Reese.

18 Q And what did he say?

19 A He had told me that the shoes were fine for now because
20 money was expen -- shoes are expensive and money is tight
21 sometimes, but that my shoes were ultimately not in dress code
22 and I would need to replace them with something that was like
23 suede, leather. It couldn't be canvas anymore.

24 Q Other than this dress code issue, did you notice any other
25 changes or change in enforcement to the rules?

1 A Yes, I have. I also started to notice that the pins that
2 we were allowed to wear were starting to get kind of noticed
3 and coached.

4 Q When did that start?

5 A That had started sometime after the new year, pretty early
6 in January.

7 Q Of which year?

8 A Of 2022.

9 Q And did anyone ever approach you about your pins?

10 A Yes, I have.

11 Q Who approached you?

12 A My store manager, Jodi Keller.

13 Q And what pins were you wearing at that time?

14 A I was wearing my Starbucks pins, some that I had purchased
15 from the Starbucks Coffee Care (phonetic throughout) website
16 that are acceptable to wear, such as my pronoun pin. And the
17 only Starbucks non-issued pins that I had been wearing were my
18 Starbucks Workers United pins that I had worn too.

19 Q Do you remember when Jodi approached you?

20 A Yes. Jodi approached me sometime during the first week of
21 March; I just can't remember which dates specifically.

22 Q When did you start wearing your union pins?

23 A I started wearing my union pins, the first one, the LGBT
24 pin, right at the end of August and then the second Memphis
25 seven pin right around Valentine's Day of 2022.

1 Q When did you start wearing the pronoun pin?

2 A I had started wearing the pronoun pin, I think, just as
3 soon as I purchased it, so mid-September of 2021.

4 Q And you had mentioned other pins. What other pins were
5 there?

6 A I had worn a Strong Like Coffee pin, which was a Starbucks
7 program, a green heart from -- it's like the Starbucks green.

8 Q When did you start wearing the green heart pin?

9 A I started wearing the green heart pin right around the
10 holiday season. Melanie Joy actually dropped all of those off
11 at our store to say thanks for all of our hard work.

12 Q Who is Melanie Joy?

13 A I don't know exactly what her position is at Starbucks. I
14 just know that she works for Starbucks.

15 Q Do you know whether she's management or an employee?

16 A I think she's management; I unfortunately can't say for
17 certain.

18 Q Okay. And when did you start wearing the Strong Like
19 Coffee pin?

20 A Around the same time. It was a spare work-appropriate pin
21 that was in the back room.

22 Q So when Jodi approached you, what did she say?

23 A She had told me that she had reviewed the policy and that
24 while all my regular Starbucks pins were okay, I was only
25 allowed to wear one of my Starbucks Workers United pins, and I

1 had to take one of them off.

2 Q Did you do what she asked?

3 A I did, yes.

4 Q And what about all the other pins you have? What did you
5 have to do with those, anything?

6 A No, I didn't have to do anything with those.

7 Q Are you familiar with a food and drink policy that the
8 Employer has?

9 A Yes, I am.

10 Q Did that rule change at all? And if it did, when?

11 A It did, yes. So when I first started there at Starbucks
12 had a policy that they had said was for COVID. I wouldn't know
13 which pre-COVID policy from Starbucks, but they said that there
14 was one fruity drink for about per day you didn't work if you
15 went to your store and it was a 20 percent discount at other
16 stores in the area. And you were also entitled to one free
17 food mark-outs at your home store every day. And then it had
18 the discount applies.

19 Q Did that change?

20 A It did.

21 Q When?

22 A I think that changed around Thanksgiving of 2021.

23 Q And how did it change?

24 A That ended up changing to -- you would still get the
25 discounts at other stores; however, you were only allowed seven

1 food mark-outs at your store per week.

2 Q Do you know if there was a rule about how many you could
3 have in a day?

4 A For averages?

5 Q Yes.

6 A Yes, there was. There was a rule you could come in 30
7 minutes before your shift and get a free beverage. You get a
8 free beverage 30 minutes after your shift. You were allowed to
9 beverage on your tens. And then you were also allowed beverage
10 on your 30.

11 Q Up to how many in a week?

12 A There was no hard limit.

13 Q Okay. And did that ever change?

14 A That -- I don't know about the hard limit changing, but
15 the policy for drinks did change.

16 Q How did that change?

17 A That ended up changing -- we weren't -- we essentially
18 weren't allowed to step off of the floor to take drinks
19 anymore. We were only allowed to drink on our tens and/or our
20 lunch.

21 Q Were you ever spoken to about any other rules?

22 A I was spoken to about facial piercings right around the
23 end of March. The mask mandate for COVID had lifted for
24 Starbucks, and so my store manager had seen my face piercings
25 and asked me to remove them.

1 Q So who approached you specifically? What was her name?

2 A Jodi Keller specifically approached me.

3 Q And what did she say?

4 A She had told me that another support manager, named
5 Tiffany -- I don't know her last name offhand, but she had been
6 in my store while we had been working and noticed that I had
7 two nose rings on, and she approached Jodi and told Jodi about
8 it. And Jodi said if -- if she didn't get approached, that she
9 never would have noticed, but because it was noticed, I had to
10 take it out.

11 Q When was your nose pierced? When did you get those
12 piercing?

13 A I got the -- I have two -- so I got the first nostril
14 piercing November of 2013. And then I believe the second one I
15 got in March of 2018.

16 Q Had you been wearing them throughout your employment?

17 A I had, yes.

18 Q Did you ever eat at work?

19 A I did, yes.

20 Q Did you ever drink at work?

21 A I did, yes.

22 Q Did you do that -- did put your mask on or off?

23 A I would take my mask off to eat or drink.

24 Q And what did you do when Jodi asked you about your
25 piercings?

- 1 A I -- I did take them out.
- 2 Q Did your store get any support managers?
- 3 A We did, yes.
- 4 Q And who were they?
- 5 A We had a support manager named Callie (phonetic
6 throughout). I think she either was from Florida or Arizona; I
7 don't know exactly which offhand. I do just know she's from a
8 warmer state. She -- she was here -- she was at my store
9 supporting us from about October of 2021 until Christmas of
10 2021.
- 11 Q Okay. And do you know what her role was where she came
12 from?
- 13 A She was either a store manager or a district manager; I
14 just can't remember which.
- 15 Q And what did you see her do when she was in your store?
- 16 A When she was in my store, she would work the cash
17 register. She would work ovens. She would do drive-through
18 often, and then she would help us by doing customer support
19 roles or backing up customer support if need be.
- 20 Q And prior to Callie's arrival, did your store have a
21 support manager?
- 22 A No. We did not.
- 23 Q Was Callie the only support manager that your store got?
- 24 A No. She was not.
- 25 Q Who was next?

1 A We also received a store manager from the D.C. area named
2 Mira (phonetic throughout).

3 Q Okay. When did Mira join your store?

4 A Mira joined our store sometime, I believe, in January.
5 And then, I think -- I think she might have been there after,
6 up and to when the renovation happened.

7 Q Do you know what she did -- where she came from?

8 A I think she was a manager or a district manager in her
9 area.

10 Q And what did she do when she was in your store?

11 A When she was in our store, she would come in and help with
12 stocking. She would do drive-through with us. She would do
13 ovens and cash register as well. And then I believe there was
14 maybe a week or two in there where she had helped my store
15 manager, Jody, with the schedule because she had had an
16 extenuating circumstance.

17 Q Did your store have any other support managers other than
18 Callie and Mira?

19 A We would temporarily have the -- the person, Louis, that I
20 mentioned earlier from the Chicago area. He would occasionally
21 come into our store and organize the hand-off plane as well as
22 hand drinks out to customers if it was getting crowded.

23 Q And how long was he in your store?

24 A He would come in temporarily, but I don't think that I saw
25 him after Thanksgiving.

1 Q And do you know when he started coming to your store?

2 A He started coming to our store right around Labor Day of
3 2021.

4 Q Does your store use headsets?

5 A Yes, we do.

6 Q When did you wear headsets in your store?

7 A We wore headsets essentially any time that you had to be
8 contact with the drive-through or if you had to be in contact
9 with the person on ovens. So ovens would wear them, the bar
10 position would wear them -- at least one of the bar positions
11 would wear them, both of the drive-through positions would wear
12 them, and then the customer support person would also be
13 wearing them.

14 Q Is that, in practicality, what happened in your store?

15 MS. POLITO: Object to form.

16 JUDGE ROSAS: Sustained. Rephrase.

17 Q BY MS. CACACCIO: In the fall of 2021, did anyone else
18 wear headsets in your store other than the people that you just
19 mentioned in those positions?

20 A Yes, they did.

21 Q Who?

22 A The managers from out of the area.

23 Q And can you tell us more about that? What happened?

24 A They would come to either -- like, come to work behind the
25 counter, and then after they were done during peak or once --



1 once it had stopped being busy and they had a second to step
2 off of the floor, would just step off of the floor with a
3 headset and then not remove it.

4 Q Do you remember any instance specifically?

5 A I, unfortunately, do not.

6 Q Do you remember anyone -- any of those managers
7 specifically who were wearing them?

8 A I remember one time in the winter of 2022 when Mira did
9 this, yes.

10 MS. CACACCIO: If I could just have one moment, Your
11 Honor. I have no further questions for this witness at this
12 time.

13 JUDGE ROSAS: Charging party?

14 MR. HAYES: No questions.

15 JUDGE ROSAS: Off the record.

16 (Off the record at 3:46 p.m.)

17 JUDGE ROSAS: Back on the record. Respondent?

18 **CROSS-EXAMINATION**

19 Q BY MS. POLITO: You voluntarily left Starbucks earlier
20 this year; is that correct?

21 A That is correct, yes.

22 Q And when you were hired, there was a mask mandate at
23 Starbucks, correct?

24 A That is correct.

25 Q And during the entire time you worked there, up until



1 early in March of this year, there was a mask mandate; is that
2 correct?

3 A That is correct.

4 Q And after the mask mandate was lifted is when you were
5 talked to about the facial piercings; is that correct?

6 A That is correct.

7 Q And in response to that conversation, you took the
8 piercings out; is that correct?

9 A That is correct.

10 Q You didn't get disciplined for that, right?

11 A No, I didn't.

12 Q And with respect to the pins that you talked about
13 earlier, you never got disciplined for violation of the pin
14 policy; did you?

15 A That is correct.

16 Q With respect to the dress code violation, with respect to
17 your white shoes, you also didn't get disciplined for that; is
18 that correct?

19 A That is correct.

20 Q And when you were hired at Starbucks, you received a
21 partner guide, correct?

22 A That is correct.

23 Q And the partner guide had those policies contained within
24 that guide, correct?

25 A Correct.

1 Q And you acknowledge receipt of the -- the partner guide
2 upon hire, correct?

3 A I do acknowledge it, yes.

4 Q With respect to the various meetings that you testified
5 about, you indicated that you thought at least some of them
6 were mandatory, correct?

7 A That is correct.

8 Q Do you remember giving an affidavit to the Board about
9 your employment at Starbucks?

10 A Yes, I do.

11 Q Do you recall that in your affidavit, you never once
12 mentioned the word "mandatory"?

13 MS. CACACCIO: Objection. Relevance.

14 JUDGE ROSAS: Sustained as to form. You might have to
15 show her pertinent parts of the affidavit to impeach.

16 MS. POLITO: It depends on how she -- right.

17 Q BY MS. POLITO: So do you recall giving an affidavit to
18 the Board?

19 A I do.

20 Q And do you recall that in that affidavit, you never once
21 mentioned the word "mandatory"?

22 A I don't recall.

23 Q Okay.

24 A But if that is what is in there.

25 Q So if I -- if I tell you that you never mentioned the word

1 "mandatory", you're not going to disagree with me, correct?

2 A I did not mention the word "mandatory" during my
3 affidavit, no.

4 Q Okay. Because, in fact, the meetings were not mandatory;
5 isn't that correct?

6 A I don't agree.

7 Q You -- you think that they were mandatory?

8 A I was told that the meetings at my store were going to
9 paid and that if I couldn't make them, they could reschedule
10 them for me.

11 Q And so you assume that they were mandatory because you
12 were paid; is that your testimony?

13 A I suppose so.

14 Q It's true that you don't have anything in writing
15 indicating that these meetings were mandatory, correct?

16 A Correct.

17 Q And you testified on direct examination that -- about the
18 content of some of those meetings; is that correct?

19 A That is correct.

20 Q And isn't it true that you recorded one of those meetings?

21 A That is correct.

22 Q And where is that recording?

23 A That recording is on my phone.

24 Q Did you provide that recording to anyone?

25 A I did not.

1 Q Do you typically record meetings?

2 A I sometimes do. I have an impartial (sic) memory.

3 Q Is that affecting your testimony today?

4 A No, it is not.

5 Q Did you ask for anyone's permission when you recorded the
6 meeting?

7 A No, I did not.

8 Q Do you recall which meeting you recorded?

9 A I do, yes.

10 Q Which meeting?

11 A I recorded the September 2nd meeting held at the Main
12 Street location, and then I recorded the first listening
13 session that was held at my store, the Regal Lancaster store
14 location, on September 22nd of 2021.

15 Q So -- thank you. So you recorded two meetings?

16 A I did, yes.

17 Q And did you do that on your own or did someone ask you to
18 do a recording?

19 A I did that on my own.

20 Q And both of those recordings you've maintained?

21 A Yes, I have.

22 Q You haven't provided that to anyone?

23 A No, I have not.

24 Q And you have no other recordings with anyone from
25 Starbucks; is that correct?

1 A That is correct.

2 Q And you also didn't request permission from anyone to do
3 either of those recordings; is that correct?

4 A That --

5 MS. CACACCIO: Objection. Asked and answered, and
6 relevance.

7 JUDGE ROSAS: Repeat the question.

8 MS. POLITO: And you also didn't ask permission from
9 anyone for either of those recordings; is that correct?

10 JUDGE ROSAS: Overruled.

11 A That is correct.

12 Q BY MS. POLITO: During the entire time that you worked for
13 Starbucks, you testified that you wore a union pin; is that
14 correct?

15 A That is correct.

16 Q And you never received any discipline for wearing the
17 union pin; isn't that correct?

18 A That is correct.

19 MS. POLITO: Can I have a minute, Judge?

20 JUDGE ROSAS: Sure.

21 MS. POLITO: I'm done. No -- no further questions. Thank
22 you.

23 JUDGE ROSAS: Redirect?

24 MS. CACACCIO: Yes, Your Honor.

25 **REDIRECT EXAMINATION**



1 Q BY MS. CACACCIO: What happened when you recorded that
2 second meeting?

3 A When I recorded that second meeting, about ten minutes
4 before the end of the meeting, a fellow coworker of mine had
5 called me out directly and told me that she didn't feel
6 comfortable with me recording her.

7 Q And what did you do?

8 MS. POLITO: Objection. Outside the scope of cross-
9 examination.

10 JUDGE ROSAS: Hold on. I'm not getting the -- the whole
11 question in. Repeat the question.

12 MS. CACACCIO: I asked what did she do after that.

13 JUDGE ROSAS: And you're objecting to that?

14 MS. POLITO: It's outside the scope of cross-examination
15 with respect to this conversation with this partner. It was
16 not asked on direct or cross.

17 MS. CACACCIO: If I --

18 JUDGE ROSAS: Did it have anything to do with the
19 recording?

20 MS. CACACCIO: Absolutely.

21 JUDGE ROSAS: Overruled.

22 You can answer.

23 Q BY MS. CACACCIO: What happened after that?

24 A I stopped recording and then did not record any future
25 listening sessions.

1 Q Did anyone else talk to you about having recorded that
2 second meeting?

3 A Mark Szto from San Francisco district also talked to me
4 about recording the second meeting.

5 Q What'd he tell you?

6 A He had told me that I was disrespecting an intimate moment
7 between partners and that people felt uncomfortable with that.
8 And I told him that I was recording it for my own personal
9 records and that I'd also shared intimate information in that
10 meeting.

11 Q Did you tell him anything else?

12 A I don't recall.

13 Q Did you tell him any -- did you tell anyone about why you
14 were recording the meeting?

15 A I said that I was recording the meeting for my own
16 personal information -- my own personal use.

17 Q So after you were spoken to by Mark, did you record any
18 other meetings?

19 A No, I did not.

20 MS. CACACCIO: No further questions at this time, Your
21 Honor.

22 JUDGE ROSAS: Hayes?

23 MR. HAYES: No questions.

24 JUDGE ROSAS: Any follow-up on that?

25 MS. POLITO: No, Judge.

1 JUDGE ROSAS: All right. Thank you. You're excused.
2 You're not to discuss your testimony with anyone unless you're
3 told the case is basically completed, okay?

4 THE WITNESS: Um-hum. Thank you.

5 JUDGE ROSAS: All right. Off the record.

6 (Off the record at 4:04 p.m.)

7 JUDGE ROSAS: On the record.

8 General Counsel?

9 MS. CACACCIO: We call Kellen Higgins to the stand.

10 JUDGE ROSAS: Raise your right hand.

11 Whereupon,

12 **KELLEN HIGGINS**

13 having been duly sworn, was called as a witness herein and was
14 examined and testified as follows:

15 JUDGE ROSAS: All right. State and spell your name and
16 provide us with an address. A loud voice at all times.

17 THE WITNESS: My name is Kellen Higgins, K-E-L-L-E-N
18 H-I-G-G-I-N-S.

19 JUDGE ROSAS: And give us an address.

20 THE WITNESS: (b) (6), (b) (7)(C)

21 (b) (6), (b) (7)(C) .

22 JUDGE ROSAS: All right.

23 **DIRECT EXAMINATION**

24 Q BY MS. CACACCIO: Hey, Kellen. Have you ever been known
25 by any other names at work?

- 1 A Yes. My last name used to be Montanye, M-O-N-T-A-N-Y-E.
- 2 Q And what are your pronouns?
- 3 A He, him.
- 4 Q Did you ever work for Starbucks Corporation?
- 5 A Yes, I did.
- 6 Q When?
- 7 A I started in November 12th of 2018, until April 16th,
8 2022.
- 9 Q When you were working for Starbucks, what was your home
10 store?
- 11 A I started out at the Transit Commons location, and then I
12 transferred later on to the Elmwood location.
- 13 Q Do you remember about when that happened?
- 14 A February 2021 -- on February 1st, 2021, was when I
15 transferred.
- 16 Q And prior to February of 2021, had you been working at the
17 Transit Commons store?
- 18 A Yes.
- 19 Q For the whole time?
- 20 A For the entire time, yes.
- 21 Q What position did you hold?
- 22 A I held barista the entire time of my employment.
- 23 Q Are you familiar with the union Workers United?
- 24 A Yes, I am.
- 25 Q How are you familiar with the Union?

1 A Through the Starbucks Workers United, the bargaining
2 committee.

3 Q When were you on the bargaining committee?

4 A During the time that the union count went through, I
5 partook in the different forms, like, through Zoom meetings and
6 email chains and just coming to any sort of meetings that we
7 had during the availability that I -- that I was able to go.

8 Q Did you ever show your union support at work?

9 A I did.

10 Q How did you do that?

11 A During the fall launch -- the holiday launch last year in
12 November, I wore the -- the Starbucks Workers United pin
13 that -- the original one that had the -- the green emblem on
14 the outside. I wore that when we were switching everything
15 over in the store for the holiday launch.

16 Q Do you remember about when that was specifically?

17 A The end of November, right around the Thanksgiving weekend
18 time.

19 Q Of -- of what year?

20 A Of 2021.

21 Q And had you ever worn a pin to work before that?

22 A No. This was the only time.

23 Q So what happened?

24 A So we were switching the entire store over, and we had
25 extra supplies that we couldn't have on the floor. So we were

1 taking any extras that we had that didn't fit in the back room
2 over to Patty's car.

3 Q Who's Patty?

4 A Patty Shanley. She was the general manager at the time.

5 Q Of which store?

6 A Of the Elmwood location.

7 Q Okay. And so where were you?

8 A We were out in the parking lot.

9 Q And who was that?

10 A It was just Patty and I at the moment.

11 Q And what happened?

12 A And she had pointed to my pin after we had put everything
13 in the car, and she said, do you support this? And I -- I
14 looked at her; I said, yes, I do. I do support this. And she
15 had said that, you know, she respected my decision and that she
16 would never change her mind about me, who I am, as a person.
17 And we kind of just had, like, a little -- a little moment
18 there, just understanding.

19 Q After you talked to Patty, did you wear your pin again?

20 A No, not for a while.

21 Q And when you -- you said not for a while. Did you ever
22 start wearing it again?

23 A I only had worn it one more time, but it was later on,
24 like, right before the semester had started, but that was it.

25 Q Do you remember about when that was?

1 A It was, like, early January time.

2 Q Of what year?

3 A Of -- I believe it would be 2022.

4 Q Why did you stop wearing the pin?

5 A You could just feel it in the air, the -- the feeling of
6 tense build-up from corporate being in all the time and any of
7 the other partners who may not have supported the union. But
8 you were just looked at differently. You just -- you just
9 knew. You had this feeling of, you know, uneasiness.

10 MS. POLITO: Objection. I move to strike that portion of
11 his answer that does not refer to what he felt and why he did
12 certain things.

13 MS. CACACCIO: Your Honor, that's exactly what Mr. Higgins
14 just testified to.

15 MS. POLITO: No.

16 JUDGE ROSAS: Sustained as to that portion is speculative.

17 MS. CACACCIO: Which portion, Your Honor? I need to know
18 if I need to go back.

19 JUDGE ROSAS: About uneasiness in general.

20 Q BY MS. CACACCIO: How did you feel, Kellen?

21 A I kind of felt looked down upon, like, almost degraded in
22 a way, especially when corporate was there. They were there
23 all the time in flocks, and they just kind of knew who was --
24 like, who was wearing the pin, okay, they -- they support. And
25 it was almost like that's -- you were just treated differently

1 if you wore the pin, plain and simple.

2 MS. POLITO: Objection to that portion of the answer
3 that's referring to "they" without specifically identifying,
4 and the answer is nonresponsive to the question.

5 JUDGE ROSAS: What -- what part was may?

6 MS. POLITO: They. He -- he referred to they amorphous.

7 MS. CACACCIO: Your Honor --

8 JUDGE ROSAS: Repeat -- repeat the answer, because it came
9 out in two parts.

10 MS. CACACCIO: Can you --

11 JUDGE ROSAS: Do you recall your answer?

12 THE WITNESS: I -- to -- to which question? I'm sorry.

13 JUDGE ROSAS: Repeat the question.

14 Q BY MS. CACACCIO: How did you feel when you wore your pin?

15 A I just felt looked down upon, like I was lesser of a
16 person, like, that I was being targeted. And amongst other
17 people that were also wearing the pin and showing their
18 support, we were all treated differently.

19 Q By whom?

20 A By corporate.

21 Q Did you ever engage with the media about the union?

22 A Yes, I did.

23 Q In what way?

24 A I had signed up for a couple different interviews through
25 Vice, BBC, NPR, Washington Post, New York Times, More Perfect

1 Union, and also, like, the local news stations as well.

2 Q And what, if anything, did you say about your stance with
3 the union during these interviews?

4 A That I was in full support.

5 Q Was there a strike that happened at your store?

6 A There was, yes.

7 Q Do you know about -- do you know what the strike was
8 about?

9 A It was pertaining to the -- the change in protections for,
10 like, the COVID virus, and anybody who was coming into the
11 store as a customer was not -- they -- they were not required
12 to have masks on anymore, and so the partners felt that that
13 just -- we -- we weren't ready for that because we come into
14 contact with so many people throughout the day, touching all
15 these cups and -- and everything. So we -- we just weren't
16 ready for that type of exposure at the moment, and so there
17 was a judgement call made to have a strike, because we just
18 didn't feel safe.

19 Q Do you know when the strike occurred?

20 A It was in the beginning of the -- of the year -- this
21 year.

22 Q Did you participate in the strike?

23 A I did.

24 Q For how many days?

25 A About three or four days.

1 Q During the union campaign did you receive any messages
2 from the employer?

3 A I did.

4 Q About what?

5 A They were just text messages that said, like, Starbucks
6 partner is -- this is -- they'd have, like, hyperlinks that you
7 could click; and there were videos on how to vote, how to vote
8 no; if you don't know what to vote, you should vote no; and
9 that your vote matters, and that every partner should vote.

10 Q Did you respond to any of these texts?

11 A I did.

12 Q If I showed you a copy of -- of the text you were just
13 referring to, could you identify it?

14 A Yes, I can.

15 MS. CACACCIO: Approaching Union and Respondent's Counsel
16 with exhibits for this witness.

17 JUDGE ROSAS: How many more exhibits do you have for this
18 witness?

19 MS. CACACCIO: I have three total. This is the --

20 JUDGE ROSAS: Do you have them --

21 MS. CACACCIO: -- the first of three.

22 JUDGE ROSAS: Do you have them organized --

23 MS. CACACCIO: I do.

24 JUDGE ROSAS: -- to distribute for everybody?

25 MS. CACACCIO: I do.

1 JUDGE ROSAS: Okay.

2 MS. CACACCIO: I learned.

3 Q BY MS. CACACCIO: I'd like to direct your attention to --
4 sorry. I'd like to direct your attention to the first set.
5 It's stapled. On the bottom right, it should say GC Exhibit
6 44. Do you see it?

7 A Yes, I do.

8 Q Can you identify what that is for the Court?

9 A So these were the -- the text messages sent in November
10 for -- for the -- right before our -- our union count. Yeah.
11 All of these text messages were sent from Starbucks except the
12 green one.

13 Q And who sent the green one?

14 A I did.

15 Q And that's on page 2?

16 A Yes.

17 Q And what are the dates and times of all the messages?

18 A So --

19 Q What does -- what does that mean?

20 A The dates and times just show -- if -- if it's a black
21 text message, it's from Starbucks, so they came in November
22 6th, 10th, 17th, and 19th, and then I responded on the 19th as
23 well.

24 Q And whose phone did these come to?

25 A My -- my phone.

1 Q Did you take these screenshots?

2 A Yes, I did.

3 Q Are they fair and accurate in your recollection as to what
4 they are?

5 A Absolutely.

6 Q And are they complete?

7 A Yes.

8 MS. CACACCIO: Your Honor, I would offer General Counsel
9 Exhibit 44.

10 JUDGE ROSAS: Voir dire?

11 **VOIR DIRE EXAMINATION**

12 Q BY MS. POLITO: Mr. Higgins, looking at GC Exhibit number
13 44, you indicated that on the second page, the green box is
14 from your phone, but there's no identification as to a
15 different phone number or anything; is that correct?

16 A It -- it wouldn't show my phone number.

17 Q That wasn't my question. My question was that the exhibit
18 doesn't show your phone number, correct?

19 A I -- I guess not, no.

20 Q When did you take the screenshots?

21 A I'm not sure when I took the screenshots.

22 Q What did you do with the screenshots after you took them?

23 A I sent them to the lawyers.

24 Q What lawyers?

25 A Starbucks Workers United lawyers.



1 Q How did you send it to them?

2 A Via email.

3 Q Do you have the original email?

4 A Yes, I do.

5 MS. POLITO: Judge, I'm going to object because this
6 document is not properly authenticated. It has no indication
7 that this is actually from Mr. Higgins' phone. There's no
8 phone number on page number 2. There -- he -- the witness also
9 just testified that he doesn't know when he took the
10 screenshots and that after he took the screenshots, he sent
11 them via email, so we don't know if they've been altered in any
12 manner.

13 JUDGE ROSAS: Okay. What's the last part about altered?

14 MS. POLITO: We don't know if the messages have been
15 altered because they were sent via email.

16 MS. CACACCIO: You -- those -- Your Honor, this witness
17 testified that these are the texts as he remembers them, that
18 he took the screenshot, that it's from his phone. When you
19 take screenshots, it doesn't show your number on them. And Mr.
20 Higgins testified they're from his phone.

21 JUDGE ROSAS: Well, that's the testimony. Counsel, you
22 can address this on cross or just attack the weight of it, if
23 any, to be given. Overruled.

24 General Counsel's 44 is received.

25 **(General Counsel Exhibit Number 44 Received into Evidence)**

1 MS. POLITO: Note my objection, Judge.

2 Q BY MS. CACACCIO: When -- Kellen, when you say that you
3 sent these to the lawyers for Starbucks Workers United, who
4 specifically did you send them to?

5 A I believe I sent them to you directly in an email, yeah.

6 Q Right. Okay. Did you ever send them Ian?

7 A Not these ones, no.

8 Q How did your hours work when you worked at Starbucks?

9 A So from the beginning of when I worked at Starbucks, from
10 November 2018 until my employment ceased, I always had a cyclic
11 schedule. Because I was hired in November, I only had limited
12 set availability, and I told the manager at the time that once
13 the winter came and then the summer, I would be able to work
14 full-time hours. And I never had a problem with switching my
15 schedule to that drastic change. And that had stayed
16 continuously from 2018 up until 2022, when there were issues.

17 Q Who was the manager you told at that time?

18 A At that time, at Transit Commons, the manager was Jennifer
19 Sparcino.

20 Q Can you spell that?

21 A Yes. S-P-A-R-C-I-N-O.

22 Q And you said that because it was November, your schedule
23 was different; why was that?

24 A Because we were already halfway through the semester in
25 the school year, yeah.



1 Q Were you in school?

2 A Yes. My entire employment through Starbucks, I've always
3 done through school.

4 Q And can you tell us a little bit about your schooling in
5 relation to when you were at Starbucks?

6 A Yeah, of course. So when I started at Starbucks, I was an
7 undergraduate at UB. And so my hours there, because
8 undergraduate was a little less demanding, I was able to work
9 at least two or more days. And then once I graduated my
10 undergraduate degree, I applied and I got into my master's
11 program. And since I've been in my master's program, I had
12 started out with two days. And then once I realized that it
13 was way too much to handle with the two days, I had requested
14 during my first semester of grad school, which was last fall of
15 2021 -- I had requested to have my Thursdays removed, and Patty
16 Shanley had approved it. And then --

17 Q So --

18 A I'm sorry.

19 Q That's okay. What did that mean with --

20 JUDGE ROSAS: Hold on.

21 MS. POLITO: Objection, Judge. The witness continues to
22 give narratives and is not answering the specific question --

23 JUDGE ROSAS: Right.

24 MS. POLITO: -- that's being --

25 MS. CACACCIO: Your Honor --



1 MS. POLITO: -- asked of counsel.

2 MS. CACACCIO: -- if I might be heard. The witn -- the
3 question to the witness was what were your hours at Starbucks.
4 And that's what this witness is testifying to.

5 JUDGE ROSAS: So have you told us what your hours are?

6 THE WITNESS: Oh, we -- yeah -- yeah, they -- they change
7 drastically. So I was trying to explain how it was -- it was a
8 cycle -- cyclical, that during the semesters, I was very
9 limited on my availability. But the winter and the summer, I
10 was working nearly full-time, if not overtime.

11 JUDGE ROSAS: Okay. So -- so that there's no confusion --

12 THE WITNESS: Yes.

13 JUDGE ROSAS: -- when the lawyer asks you a question that
14 can be answered yes and no, that's how it should be answered.

15 THE WITNESS: Okay. Sorry.

16 JUDGE ROSAS: Let the lawyer take it from there.

17 THE WITNESS: Okay.

18 JUDGE ROSAS: You need not jump ahead because -- then the
19 que -- then the answers become long. And then we have to
20 decide what part to exercise or not. Okay?

21 THE WITNESS: My apologies. Sorry.

22 Q BY MS. CACACCIO: What was your approved availability in
23 the fall of 2021?

24 A I had worked Saturdays from -- I -- the availability
25 ranged from 6:30 a.m. to 2 p.m.

1 Q Prior to 2022, had you ever had an issue getting your
2 availability approved?

3 A Never.

4 Q How is availability approved in the system?

5 A We use --

6 MS. POLITO: Object to form.

7 JUDGE ROSAS: What's the objection as to form?

8 MS. POLITO: The question was how is it approved in the
9 system. He can testify to what his experience is but not what
10 the Starbucks system is. It's just his experience.

11 JUDGE ROSAS: Overruled. If you know.

12 A Yeah. So we login through the partner hub, and we can use
13 the portal, Teamworks. And Teamworks is set up so you can put
14 in availability. You can post a shift if you need to -- to
15 give it up or you can take a shift from another person or you
16 can put in a new set of availability within the Monday through
17 Sunday where each -- and you can, like, manipulate that the
18 hours that you need and put it in a comment if you have to, and
19 you can submit it to be reviewed by the manager. And then when
20 it's approved, it'll say approved by Patty Shanley and it'll
21 give, like, a date.

22 Q Are you able to see your approved availability in the
23 system?

24 A Yeah, you can see it's approved or denied, yes.

25 Q If I showed you a copy of your approved availability,



1 would you be able to identify it?

2 A Yes, I would.

3 Q You'd look at General Counsel Exhibit 45, which is in
4 front of you. Do you see it?

5 A Yes.

6 Q Can you tell us what that is?

7 A This is the approved availability from August 30th, 2021,
8 to December 17, 2021.

9 Q And how did this come to be? How did you get a copy of
10 this?

11 A I took a picture of it on my -- from my phone that was on
12 my computer.

13 Q And when did you do that?

14 A February 22nd.

15 Q And how do you know that?

16 A If you look at the bottom here, there's, like, a little
17 icon, and it's white and red, and it says February 22nd.

18 Q And what did you do with this photograph after you took
19 it?

20 A I sent it in to you and Ian.

21 Q Is this accurate as to your availability?

22 A Yes.

23 Q Was it altered in any way?

24 A No.

25 MS. CACACCIO: Your Honor, I will offer General Counsel's

1 Exhibit 45.

2 JUDGE ROSAS: Voir dire?

3 **VOIR DIRE EXAMINATION**

4 Q BY MS. POLITO: Mr. Higgins, you said that there is an
5 indication that you took a -- did you say screenshot after
6 February -- what did you do?

7 A I -- I took a picture from my phone like on my desktop.
8 So this is just up on my computer.

9 Q And can you point to the document where the date is?

10 A Yeah, it's the -- it's the eight icon and on the bottom.
11 It has the red and white and it says 22, such is the date.

12 Q That's the calendar?

13 A Yeah. Um-hum. The calendar app on the MacBook, yeah.

14 Q And so you took this -- a picture with your phone?

15 A Um-hum. Yes.

16 Q And did you email it to (b) (6), (b) (7)(C) ?

17 A Oh, no. The -- the two emails that are -- those are my --
18 like, UB emails for school.

19 Q Okay. So those email addresses up top have nothing to do
20 with --

21 A Yeah.

22 Q -- the exhibit?

23 A No. No.

24 Q And so you -- you had the -- your availability on the
25 screen from partner hub and you took a picture with your

1 camera; is that --

2 A Yes.

3 Q -- correct?

4 A Yes.

5 Q And then you sent that picture to counsel?

6 A Yes, I did.

7 MS. POLITO: Nothing further, Judge.

8 JUDGE ROSAS: Any objections?

9 MS. POLITO: No.

10 JUDGE ROSAS: General Counsel 45 is received.

11 **(General Counsel Exhibit Number 45 Received into Evidence)**

12 **RESUMED DIRECT EXAMINATION**

13 Q BY MS. CACACCIO: Now, did you work all of those Saturdays
14 that you were scheduled as a barista in the fall of 2021?

15 MS. POLITO: Object to form. There was no testimony that
16 he was scheduled.

17 MS. CACACCIO: Okay. I'll rephrase.

18 Q BY MS. CACACCIO: Kellen, were you scheduled to work in
19 the fall of 2021?

20 A On Saturdays, yes.

21 Q Did you work those Saturdays?

22 A No, I did not.

23 Q Why not?

24 A I had to attend the -- the union-busting meetings.

25 Q And how many meetings did you attend?

1 MS. POLITO: Judge, I'm going to ask that the witness
2 refrain from referring to any Starbucks meetings as union-
3 busting meetings and have that stricken from the record.

4 MS. CACACCIO: Your Honor, if I might be heard? That's
5 what this witness believes those meetings were for. If
6 Respondent's Counsel wants to offer other evidence, they're
7 welcome to do that. But this witness attended --

8 JUDGE ROSAS: It's a -- it's a contentious term; rephrase.
9 Let's not waste time talking about terms of auth -- both sides.

10 Q BY MS. CACACCIO: Did you attend meetings by -- held by
11 the Respondent?

12 A I did.

13 Q How many did you attend?

14 A Every one.

15 Q Do you know about how many there were?

16 A There were roughly six to eight.

17 Q And were the stores opened or closed during those
18 meetings?

19 A It depended on the meeting. It -- at hand, if it was at
20 our store, the store was closed. But if we were at one of the
21 hotels that they had booked a conference room with, some of
22 them were open at the time, yes.

23 Q About how many of the store meetings that you attended --
24 how -- sorry. How -- how --

25 MS. CACACCIO: Strike that.

1 Q BY MS. CACACCIO: How many of those meetings that you
2 attended were in your store?

3 A I -- I believe three of them were.

4 Q And about how many were in the hotels?

5 A Three to four.

6 Q Did you ever speak up at any of those meetings?

7 A I did.

8 Q Did you record them?

9 A No.

10 Q How many of them did you speak up at?

11 A About two of them, yes.

12 Q Can you tell us what you talked about, and let's talk
13 about the first one?

14 A So during the first meeting, we were all sitting around --
15 like in a -- in like a big-group circle. And we were kind of
16 just explaining who we were, how long we've been a partner at
17 Starbucks, and what our favorite thing about Starbucks was, and
18 every person in the -- in the room had -- had spoken up about
19 that.

20 And then, the other time that I spoke up, Rossann was
21 asking -- she -- she was kind of asking around about what --
22 what we thought of being there at the -- at the actual
23 meetings. And then we kind of talked about what -- what we
24 wanted to ask in a -- in a way of saying, like, what can you do
25 for us? Like -- I don't know if that made any sense. But

1 basically, she was asking us -- almost what do you want from
2 us? What can we do for you? What can we do to fix this?

3 Q What meeting was this meeting?

4 A This was the one where we were at the -- I believe it's on
5 High Street. There's a -- I believe it's a Hyatt right --
6 right behind Roswell.

7 Q Do you remember about when the meeting was?

8 A It was sometime in October.

9 Q And how many employees were there?

10 A I'd say around six.

11 Q And what store were those employees from?

12 A They were all from Elmwood.

13 Q And what did you say in response to Rossann?

14 A So Rossann had said that they do all of these meetings
15 that we were having at that moment. She said that she did
16 around 3,000 of them a year, annually. And so she said that
17 they hit every store each year from the beginning to the end of
18 the calendar year; every store is met. And so I was the oldest
19 partner in the room besides the other corporate members. And I
20 had said, okay, I've been here for three years, so let's just
21 use 3,000 meetings -- I said, that's 3, 6, 9,000 meetings, yet
22 this is still the first time I'm ever meeting you. And she --

23 Q Did they respond?

24 A Yeah. Yeah. Rossann did. She -- she paused for a second
25 and said, I know, and we're trying to fix that.

1 Q Did managers ask any questions during these meetings?

2 A Not that I recall.

3 Q You don't remember the managers asking anything during the
4 meetings?

5 MS. POLITO: Objection. Leading and asked and answered.

6 JUDGE ROSAS: I'll allow that. You -- do you remember
7 any?

8 MS. CACACCIO: Maybe I should ask it different.

9 Q BY MS. CACACCIO: Do you -- do you remember the managers
10 asking the partners anything during those meetings?

11 MS. POLITO: Same objection. Asked and answered. Leading
12 the que -- lea -- trying to lead the witness.

13 JUDGE ROSAS: I'll allow that. You can answer it if you
14 recall.

15 A I -- I have a --

16 THE WITNESS: Can I ask?

17 JUDGE ROSAS: No.

18 THE WITNESS: No?

19 JUDGE ROSAS: If you know.

20 THE WITNESS: The -- the store managers, like, as in like
21 Patty, no. But --

22 Q BY MS. CACACCIO: What about corporate?

23 A Corporate, okay. Sorry. I was --

24 Q Sorry. That --

25 A -- just confused. Corporate, yes, they would ask us

1 questions, and we would ask back, yes.

2 Q What kinds of questions would corporate ask?

3 A They would ask similar to what Rossann had asked before.

4 What can we do for you? How can we fix this? And we would

5 kind of respond willingly with what they could change at the

6 store at the time, but also larger issues, such as, like,

7 staffing and, you know, wage increases, different -- different,

8 I guess determinant issues.

9 Q Were there other issues that were discussed other than the
10 one you just mentioned?

11 A I -- I mean, we would talk all about like how we don't --
12 we didn't feel heard in a way, and the -- the managers would
13 respond back with that we don't need a third party between us
14 and we're here to fix this now. We didn't -- kind of like
15 settle at the moment and -- and make amends and -- and fix what
16 we need to.

17 Q Were there any --

18 MS. POLITO: Object to the portion of the answer that does
19 not expressly state what he heard at those meetings, and his --
20 at -- instead identifying his summary.

21 JUDGE ROSAS: Sustained. Stricken.

22 MS. CACACCIO: Your Honor, I don't understand -- can you
23 explain the -- I don't understand the ruling.

24 JUDGE ROSAS: It's -- it's -- it's too vague, and it's not
25 based on specific testimony as to the facts.

1 Q BY MS. CACACCIO: Do you remember any specific examples of
2 issues in your store that were raised at these meetings?

3 A I know that the staffing was a big issue. We didn't have
4 enough people on the floors. We had an old carpet in back that
5 was back there for ages. We had, like, fruit-fly issues. We
6 had -- the -- the back counter space was so tight that it was
7 essentially a fire hazard. If we had some sort of issue, we
8 would not have been able to get out in time due to the way that
9 the layout of the store was. There -- there were many issues.

10 Q So looking back at General Counsel's Exhibit 45, after
11 your availability -- did your availability ever expire?

12 A Yes, the one after this.

13 Q And when did -- General Counsel Exhibit 45, when did that
14 availability expire?

15 A This availability expired on the 17th of December of 2021.

16 Q So after that hap -- after your availability expired, what
17 happened?

18 A After this expired, I ended up putting in a winter
19 availability, which was full time, and that was approved. And
20 then I had to put in another availability, which would have
21 been my, like, school semester availability.

22 Q And what availability was that?

23 A At the time, that was going to be Saturdays and Thursdays.

24 Q What happened?

25 A I ended up realizing that I had made an error and I had

1 a -- a conflict -- a time conflict on that Thursday, so I would
2 not have been able to work on that Thursday.

3 Q So what did you do?

4 A So I had texted Patty and I said, can you please -- like,
5 essentially, deny that availability and that I would put in
6 another one.

7 Q Did you ever take a screenshot of that text message?

8 A That text message, yes.

9 Q And if I showed you, would you be able to identify it?

10 A Yes.

11 Q Looking at General Hospital Exhibit 46. Do you see the
12 text messages that you're referring to somewhere on General
13 Counsel's Exhibit 46?

14 A Yes.

15 Q And where is it?

16 A It's on the top of page 2. It's that first blue text
17 message. Sorry. It's on the first page. The first text
18 message. I got ahead of myself.

19 Q Okay. Did you ever get a response to that message?

20 A I did not.

21 Q So what happened then?

22 A So I ended up putting in a new availability, and she
23 denied that first one as I had requested; she did that. I put
24 in another one, but it expired out of the system.

25 Q What was the second availability that you put in the

1 system?

2 A The one that expired that I put in was just for Saturdays
3 alone.

4 Q Did you ever talk to Patty about what was going on?

5 A Yeah.

6 Q When did you do that?

7 A So I had talked to her when I was in the store. There
8 were a couple of Saturdays that I was in the store and she was
9 working as well.

10 Q After availability expired, were you getting scheduled?

11 A Not regularly, no.

12 Q So what happened?

13 A So it was very blotchy whenever I would have a shift. And
14 I confronted Patty. And so when I -- I tried confronting her
15 in person, and then I also had texted her, which is also on
16 here. And she had said that we had to set up a meeting,
17 essentially, and which we -- we ended up doing.

18 Q So --

19 JUDGE ROSAS: Counsel, what are we doing with General
20 Counsel's 46?

21 MS. CACACCIO: It -- we're still going, Judge. We're
22 still talking about it.

23 JUDGE ROSAS: So --

24 MS. CACACCIO: It's not offered yet. I mean, I can offer
25 it now.

1 JUDGE ROSAS: Witness is looking at it and --

2 MS. CACACCIO: Sure. Let me offer --

3 JUDGE ROSAS: -- the questions -- you know.

4 MS. CACACCIO: Sure.

5 JUDGE ROSAS: Are we dealing with past recollection
6 recorded? We don't recall anything or -- or what are we doing?

7 MS. CACACCIO: No, no, Judge, it's confi -- it's
8 confirmatory.

9 Q BY MS. CACACCIO: Are these your texts?

10 A Yes.

11 Q Are they -- are your texts with Patty from January 25th
12 all the way through March 2nd?

13 A Yes, they are.

14 Q Are there any missing?

15 A No.

16 MS. CACACCIO: Your Honor, I offer General Counsel Exhibit
17 46.

18 JUDGE ROSAS: Voir dire?

19 **VOIR DIRE EXAMINATION**

20 Q BY MS. POLITO: Mr. Higgins, how do you know that there's
21 no text messages missing?

22 A I don't delete text messages, especially from my boss.

23 Q So you still have these on your phone?

24 A Yeah.

25 Q And are these all the text messages that you and -- and

1 Patty exchanged?

2 A I -- there's more prior to this.

3 Q So you only selected these few text messages; is that
4 correct?

5 MS. CACACCIO: Objection as to whether the witness
6 selected these text messages.

7 JUDGE ROSAS: I'll allow that. You can answer.

8 A Can you repeat the question, please? Sorry.

9 Q BY MS. POLITO: So you only selected these few text
10 messages; is that correct?

11 A Yeah, from the date that I had issues with my schedule.

12 Q And then did you take a screenshot of these text messages?

13 A Yeah. That's what these are.

14 Q And then you sent them via email to the attorneys again?

15 A That's correct.

16 Q And do you have that original email?

17 A Yes.

18 Q And you still have all of the text messages you exchanged
19 with Patty?

20 A Yes, I do.

21 MS. POLITO: Same objection as earlier, Judge. There's
22 no -- it's not a complete record, and there is no indication as
23 to whether or not the text messages could have been altered at
24 the time that they were sent via email.

25 JUDGE ROSAS: Again, that goes to weight. Overruled.

1 General Counsel's 46 is received.

2 **(General Counsel Exhibit Number 46 Received into Evidence)**

3 **RESUMED DIRECT EXAMINATION**

4 Q BY MS. CACACCIO: If you can turn General Counsel's 46
5 over. Just flip it over. Yeah, there you go. Did you meet
6 with Patty as you planned to?

7 A I did.

8 Q Where did you meet her?

9 A We met at the Elmwood store in the lobby.

10 Q And how long did that meeting last?

11 A About 30, 45 minutes.

12 Q Who was part of that conversation?

13 A It was just Patty and I. And then after that, a partner
14 came up after, but the conversation had ceased.

15 Q Where did you happen to meet at?

16 A Right in the lobby over -- in front by the merchandises.

17 Q How did the conversation start?

18 A We just caught up. I -- Patty was out on leave for
19 surgery, so we had just caught up. I asked her how her surgery
20 went, and she asked me how school was going.

21 Q And what happened after that?

22 A I asked her if I was going to be fired. And she said, no,
23 I wasn't going to be fired. I told her that it was a weight
24 off my chest because I was nervous. And then she said that
25 there was an issue with the availability at hand.

1 Q And what did you say?

2 A Well, I -- I was caught off guard. And she had said that
3 because we were in our off season at work, there were cuts in
4 places, not across the board, which is what I had asked. You
5 know, are there cuts being taken from every partner? But it
6 was just a select few partners that were being -- their --
7 their hours were being taken away.

8 Q And so what happened after that?

9 A Patty gave me three options. She told me that I could
10 resign if I couldn't post the hours required. I could take a
11 leave of absence, an LOA, or I could post the hours.

12 Q Did you talk about those options with her?

13 A Yeah. We -- we did for around -- at that time and another
14 time after.

15 Q At this meeting, what did you discuss with respect to
16 those options?

17 A Well, she had said that I needed to have at least 20 hours
18 of availability on the schedule, which would equate to four to
19 five days, depending on how long those shifts were at hand.
20 And so I told her that -- you know, I wouldn't be able to make
21 a decision at this moment because whatever decision I made, it
22 would affect my partner as well because we live together and we
23 had just moved. So I -- I told her that I need some time, but
24 I was really upset. And I had started crying and, you know, I
25 was just very overwhelmed because it was a big decision.

1 Q Why did you start crying?

2 A I -- I was just really overwhelmed. I -- I didn't know
3 what to do. I was taken aback because this was a company that
4 I had -- I had -- I had never had problems within my
5 scheduling. I never thought that I would have to fear this
6 decision in the future.

7 Q So what happened when you started crying?

8 A Patty asked if I wanted a glass of water. And she tried
9 to just comfort me. And she also had said that -- you know, it
10 was just one day -- like, that availability was. Like, it's
11 just one day, almost as if, like, it didn't really matter
12 because it was one day. But for me, that one day brought
13 groceries in for the next week. It bought my bus or my train
14 ticket to school. It put gas in the car if I needed gas. It
15 was -- essentially, but if it was just 50, \$60.

16 Q So what did you say?

17 A I -- I told her exactly that, that I'd just moved and my
18 rent was now \$325 more than what it was. And I just didn't
19 know what I was going to do.

20 Q What did she say?

21 A She said that -- you know, there's nothing really that she
22 could do. And she gave me an example using one of our other
23 partners, Angela (phonetic throughout). And she had said
24 that -- that Angela has around 30 to 32 hours a week. And she
25 said that she wasn't going to take away hours from another

1 person to give to other partners who were just on the schedule
2 that short day.

3 And so I had told her that when I was initially hired, it
4 was -- you know, hours weren't guaranteed. And that was very
5 set in stone. Like, hours aren't guaranteed. You can put
6 whatever on the schedule, but you will not end up with that all
7 the time. So I was just expressing my confusion because -- you
8 know, now, hours aren't guaranteed, but now they're being
9 stripped away from certain select people. Like, Angela didn't
10 get any of those hours taken away. Other people had 35, 38
11 hours on the schedule, but mine were being taken.

12 Q And what did she say in response --

13 MS. POLITO: Objection to that. Objection to the portion
14 of the answer where he's talking about other people's
15 schedules.

16 MS. CACACCIO: Your Honor, the witness is testifying as to
17 what Patty told him in this meeting.

18 JUDGE ROSAS: That's not what I heard. You can rephrase
19 and re-ask it.

20 A Oh --

21 Q BY MS. CACACCIO: What -- what did Patty tell you about
22 other partners in this meeting?

23 A So Patty said that Angela -- she said, I'm going to use
24 Angela for an example. Angela has 30 to 32 hours a week, and
25 I'm not going to take away hours from partners who have those

1 many hours on the schedule. And in our off season, which this
2 was, our sales are down so much that typically hours get taken
3 away from every partner. And it's not always equal, but it's
4 always just a little different, each person, to make up for the
5 plummet in sales because we don't make sales up until the
6 springtime again. So we --

7 Q How do you know that?

8 A Sorry?

9 MS. POLITO: Objection.

10 JUDGE ROSAS: All right. You're going to have to -- in
11 our off season after that.

12 Q BY MS. CACACCIO: How do you know --

13 A Yeah.

14 Q Do you know what happened -- how long have you worked at
15 Starbucks?

16 A Almost four years.

17 Q And have you noticed any change in hours during that time?

18 A I -- yeah.

19 MS. POLITO: Objection. Chang in -- wha -- it's purely
20 speculative as to change in hours. He can testify about his
21 change of hours, which we've already heard.

22 MS. CACACCIO: Your Honor, this witness has --

23 JUDGE ROSAS: Hold on. Overruled. Let's see where it
24 goes. You can answer.

25 A So Angela's hours weren't going to be taken, but I was

1 expressing that typically hours are taken away from partners
2 across the board because hours aren't -- the -- because
3 hours -- in the time after the holiday until summertime --
4 like, spring/summertime, the sales just aren't as high. So in
5 that specific section of time of the calendar year after the
6 holiday, we don't need as many people on the floor because
7 we're not making enough money. So hours get taken from other
8 partners, and that's what Patty was referring to, that she
9 wasn't going to take away hours from Angela in her example
10 because I have less availability. So she was going to take
11 them from me instead of Angela.

12 Q BY MS. CACACCIO: Did you talk to -- did you actually talk
13 to her about your -- about the hour-change issue?

14 A Yeah, I did. I -- I had said -- you know, like, from the
15 beginning of my employment at Starbucks, hours were never
16 guaranteed, so I just didn't understand why this was happening
17 and why I had to post 20 hours just to maintain employment when
18 I never had to do that before.

19 Q Did she tell you -- did she tell you how many hours or how
20 many days you had to work to be able to -- to keep working?

21 A Yes.

22 Q What did she tell you about that?

23 A She said that it's 20 hours, which was equivalent to
24 roughly four days, morning opening availability only, that she
25 was looking for.

1 Q And what did you say in response to that?

2 A I told her that there was not really a chance that I could
3 do that because of my school schedule.

4 Q Did she respond?

5 A She said that she knew that I couldn't do it.

6 Q So what happened after that?

7 A So I -- that's when I had told her, like, I really need to
8 look into this decision because I can't make this decision on
9 my own because I need to talk to my partner and we need to come
10 up and formulate a decision together.

11 Q And I thought you -- you had said there was a third
12 option. What was that?

13 A The -- the third option would have been like -- I resign
14 myself and I am considered rehirable later on.

15 Q Was anything discussed about that option at this meeting?

16 A Yes.

17 Q What happened in that conversation?

18 A She said that I have the availa -- that -- that I have the
19 option to put in my two weeks. And once I did that, I would
20 still remain rehirable later on in the foreseeable future when
21 I was either done with school or after my semester.

22 Q Did she make a suggestion as to which option you should
23 take?

24 A She really emphasized the fact that I would be rehirable.
25 And so for me, I felt like she really weighed heavy on put in

1 your two weeks; you'll be rehirable. You don't have any -- you
2 know, write-ups or baggage on your -- you know, like, your
3 name, so you would be able to be rehirable, no problem.

4 Q How did the conversation end?

5 A She had said that we needed to meet later on and we would
6 discuss further after I formulated -- you know, a choice.

7 Q Were you put on the schedule at that point?

8 A So she had said that there was an opening later on in a
9 couple of weeks that she would put me on. And so I told her
10 that I would absolutely take it.

11 MS. CACACCIO: Your Honor, we're like, heading up to 5:30.
12 I'm not done yet. Do you want me -- can we break and recall
13 Kellen in the morning and --

14 JUDGE ROSAS: You done with this particular line?

15 MS. CACACCIO: Yes.

16 JUDGE ROSAS: Okay. Let's go off the record. We'll --
17 we'll resume at this point 9 a.m. tomorrow morning.

18 **(Whereupon, the hearing in the above-entitled matter was**
19 **recessed at 5:21 p.m. until Tuesday, July 26, 2022 at 9:00**
20 **a.m.)**

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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 3, Case Numbers 03-CA-285671, et al., Starbucks Corporation and Workers United, held at the National Labor Relations Board, Region 3, Niagara Center Building, 130 South Elmwood Avenue, Suite 630, Buffalo, New York 14202, on July 25, 2022, at 1:03 p.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.

Lee Miller

LEE MILLER

Official Reporter